SUPREME COURT OF THE UNITED STATES.

No. ~~228~~ ~~145~~ ~~66~~ ~~43~~ ~~40~~
" ~~39~~ 38

THE UNITED STATES, Pl'ffs in Er.,

vs.

JAMES BURBANK and HARRIET R. ALLSBURY, Adm'r and Adm'x of HANSON ALLSBURY, dec'd.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

GIDEON, Printer.

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THE UNITED STATES OF AMERICA.

District Court of the United States for the Western District of Texas, at Austin.

At a term of the District Court of the United States in and for the Western District of Texas, begun and held at the City of Austin, on the first Monday of January, A. D. 1860, present the Honorable Thomas H. Duval, Judge of said Court, Wm. C. Young, U. S. Marshal, and Matthew Hopkins, Clerk. Among other the following proceedings were had, to wit:

(Title of Cause.)

THE UNITED STATES, Plaintiff,
vs.
JAMES BURBANK and HARRIET R. ALLSBURY, Administrator and Administratrix of Hanson Allsbury, deceased, Defendants. } No. 525. L.

Be it remembered, that heretofore, to wit, on the 26th day of February, A. D. 1859, came the plaintiffs, the United States, by their attorney, R. B. Hubbard, Esq'r, and filed their petition herein, which petition is in words, to wit: Endorsed, to wit:—

No. 525. The United States *vs.* James Burbank and Harriet R. Allsbury, administrator and administratrix of Hanson Allsbury, deceased.

(Endorsement to Petition.)

Original Petition. Filed Feb'y 26th, 1859.
M. HOPKINS, Clerk.

Process issued Feb. 26, 1859. M. HOPKINS, Clerk.

Ex'n iss'd April 17, 1860. R. B. HUBBARD, U. S. Att'y.

United States of America, Western District of Texas.

In the District Court of the United States for the Western District of Texas, sitting at Austin, June Term, A. D. 1859.

To the Honorable Thomas H. Duval, Judge of United States District Court for the Western District of Texas:—

Your petitioner, the United States of America, would respectfully represent to your honor, that on the sixth day of March, in the year of our Lord one thousand eight hundred and fifty-five, at Charleston, in the State of South Carolina, one Jeremiah Y. Dashiell, who is a resident citizen of Bexar County, in said district, one Isaiah A. Paschal, also of said district, and one Hanson Allsbury, late resident

citizen of said district, but who died before the commencement of this suit, did make and execute their certain penal bond to your petitioner, by and in which they show and therein acknowledge themselves to be holden and stand firmly bound and obliged unto the said United States of America, in the penal sum of twenty thousand dollars, well and truly to be paid unto the treasury of the United States of America, for which payment faithfully to be made and done, they, the said Jeremiah Y. Dashiell, Isaiah A. Paschal, and Hanson Allsbury, bound themselves and each of them, their heirs, executors, and administrators, jointly and severally, and firmly by said penal bond, which they and each of them then and there signed, sealed and delivered to your petitioner.

Your petitioner further shows, that said penal bond was and is subject to a condition therein made and written, to the effect, that the said Jeremiah Y. Dashiell was a paymaster in the army of the said United States, and that being paymaster as aforesaid, further reciting, that if the said Jeremiah Y. Dashiell shall well and truly execute and faithfully discharge, according to law, and to instructions received by him from the proper authority, his duties as paymaster aforesaid, and he, his heirs, executors, or administrators shall regularly account, when thereto required, for all moneys received by him, from time to time, as paymaster aforesaid, with such person or persons as shall be duly authorized or qualified, on the part of the said United States, for that purpose; and also refund, at any time when thereto required, any public moneys remaining in his hands unaccounted for; then their (above described) obligation shall be null and void and of no effect; otherwise to remain and be in full force and virtue.

And your petitioner alleges that the said Jeremiah Y. Dashiell did not well and truly execute and perform, and faithfully discharge according to law and to instructions received by him from the proper authority, his duties as paymaster, aforesaid; nor did the said Jeremiah Y. Dashiell, nor no one for said Jeremiah Y. Dashiell, regularly account when thereto required for all moneys received by him as paymaster, aforesaid, according to law; nor did the said Jeremiah Y. Dashiell refund at any time, (nor did any one for said Jeremiah Y. Dashiell) refund at any time when required, the public moneys remaining in his hands unaccounted for as paymaster aforesaid, but has (and have hitherto) and still doth refuse and neglect so to do in this, to wit: on the fifteenth day of September, in the year of our Lord one thousand eight hundred and fifty-eight, the said Jeremiah Y. Dashiell had in his hands, as paymaster aforesaid, a large sum of public money, to wit, the sum of twenty thousand and eighty-five dollars and seventy-four cents, which said sum was a balance then due and owing to petitioner, and which said sum had come into the hands of said Jeremiah Y. Dashiell as paymaster aforesaid, to and for the use of petitioner, as will more fully and at large appear by reference to the authenticated transcript of his

account with the treasury department of the said United States of America, which, together with a certified copy of said original bond, will be produced on the trial of this cause.

And petitioner further represents, that the said Jeremiah Y. Dashiell, principal in said bond, and the said Isaiah A. Paschal, one of the sureties thereto, have been heretofore sued in the said court, which said suit is now pending on account of the breach and forfeiture of said bond, as herein set forth, but that the said Hanson Allsbury has departed this life.

Petitioner further alleges that James Burbank, a resident citizen of the county of Guadalupe, in said district, and Harriet R. Allsbury, of the county of Bexar, in said district, are, the former administrator and the latter administratrix of the said Hanson Allsbury, deceased. That as such they are the legal representatives of Hanson Allsbury, deceased, and as such are seised and possessed of the estate (in goods and chattels, real and personal, &c.) of their said intestate.

This suit, therefore, may it please your honor, is instituted against the said James Burbank and Harriet R. Allsbury for the sum of twenty thousand dollars, the amount named in said penal bond, together with all lawful interest and costs thereon. And petitioner further alleges that the said Jeremiah Y. Dashiell, paymaster aforesaid, being indebted to petitioner in the sum of twenty thousand and eighty-five dollars and seventy four cents, in consideration thereof, undertook and promised your petititioner to pay the said sum of money, whenever thereunto required or requested lawfully to do the same, yet though often requested, he, the said Dashiell, hath not paid the same or any part thereof, but hath hitherto and still doth wholly fail and refuse so to do, to the great damage of petitioner, to wit, one hundred thousand dollars.

Nor hath the said Paschal nor the said Allsbury, nor any one on behalf of all or either of the above described and bounden parties, paid said sum or any part thereof, although often requested, to the great damage of petitioners above set forth.

Petitioner therefore alleges that by means thereof, and by force of the statute in such cases made and provided, and because of the above stated breaches in said penal bond, a right hath accrued to petitioner to have and recover of and from the said James Burbank, administrator as aforesaid, and the said Harriet R. Allsbury, administratrix as aforesaid, of the said Hanson Allsbury, deceased, the sum of twenty thousand dollars, the amount and sum named in said penal bond, together with lawful interest and all costs of this suit. Wherefore petitioner brings this suit and prays your honor that citation, and all proper process may issue to the said James Burbank, administrator as aforesaid, and the said Harriet R. Allsbury, administratrix as aforesaid, of said Hanson Allsbury, deceased, commanding them to be and appear at the next term of said court, then and there to answer this petition.

And that on final trial here of your petitioner, may have and recover of and from the said James Burbank and the said Harriet R. Allsbury, administrator and administratrix as aforesaid, the sum of twenty thousand dollars and all lawful interest thereon, and all costs in this behalf expended.

And have and obtain judgment therefore against the assets of the estate of the said Hanson Allsbury, deceased, in their hands as his legal representatives. And for all such other and further relief as petitioner may be entitled to in law, and as may seem meet to your honor.

RICHARD B. HUBBARD,
U. S. Dist. Att'y of West'n Dist. Tex's.
Per GEORGE FLOUSNORY, Attorney.

(Citation to Jas. Burbank.)

And afterwards, to wit, on the 28th day of February, A. D. 1859, citations issued to the above named defendants in due form and course of law. The citation to James Burbank is endorsed in words, to wit, "No. 525 L." In United States District Court, Western District of Texas, at Austin holding sessions. The United States *v.* James Burbank and Harriet R. Allsbury, administrator and administratrix of Hanson Allsbury, dec'd. *Citation* to James Burbank. Issued Februrry 28th, 1859.

R. B. HUBBARD, U. S. Dist. Att'y,
Attorney for Plaintiffs.
MATTHEW HOPKINS, Clerk.

Rec'd in office, March 4th, 1859.
THO. W. MASTERSON, Act'g U. S. M.

The citation is in words, to wit:—

United States District Court, Western District of Texas.

The President of the United States, to the Marshall of the Western District of Texas, greeting:—

You are hereby commanded to summon James Burbank, administrator est. of Hanson Allsbury, dec'd, if to be found in your district, to be and appear before the honorable the District Court of the United States, at a court to be holden in and for the Western District of Texas, at the city of Austin, on the first Monday of June next, to answer to the petition and complaint of the United States of America; a copy of which is hereto annexed, against James Burbank, adm'r, and Harriet R. Allsbury, adm'x, of the estate of Hanson Allsbury, dec'd, in an action of debt (on bond) of which you will serve the said defendant, James Burbank, adm., &c., with the accompany copy of said petition.

Witness the Hon. Thomas H. Duval, judge of said court and seal of court at the city of Austin, this 28th day of February, A. D.

eighteen hundred and fifty-nine, and 83d year of the independence of the United States of America.

[SEAL.] MATTHEW HOPKINS, Clerk.

(Marshal's Return.)

The marshal's return is endorsed on said citation in words, to wit: "Came to hand March 3d, 1859, and executed the same by delivering in person to the within named defendant, James Burbank, a copy of the within citation and a certified copy by the clerk, of the petition in this cause.

WM. C. YOUNG,
U. S. Marshal, W. D. Texas.
By T. M. LOGAN, Deputy.

Marshal's fees—

Wm. C. Young, mil.	65m.,	6c.	$3 90
Dep'ty X mil.,	40	6	2 40
Serving writ,			2 00
			$8 80

The citation to Harriet R. Allsbury, issued at the same date as the last aforesaid, is endorsed in words, to wit: No. 525, L. In United States District Court, Western District of Texas, at Austin holding sessions.

(Citation to Harr't R. Allsbury.)

The United States *v.* James Burbank, and Harriet R. Allsbury, administrator and administratrix of the estate of Hanson Allsbury, dec'd. Citation to Harriet R. Allsbury, issued Feb'y 28th, 1859.

RICHARD B. HUBBARD, U. S. Dist. Att'y,
Attorney for Plaintiffs.
MATTHEW HOPKINS, Clerk.

Rec'd in office, 4 March, '59.

THO'S W. MASTERSON, Act'g U. S. M.

The citation is in words, to wit:—

United States District Court, Western District of Texas.

The President of the United States, to the Marshal of the Western District of Texas, greeting:—

You are hereby commanded to summon Harriet R. Allsbury, administratrix of the estate of Hanson Allsbury, dec'd, if to be found in your district, to be and appear before the honorable the District Court of the United States, at a court to be holden in and for the Western District of Texas, at the city of Austin, on the first Monday of June next, to answer to the petition and complaint of the United States of America, a copy of which is hereunto annexed, against James Burbank, adm'r, and Harriet R. Allsbury, adm'x of the estate of Hanson Allsbury, dec'd, in an action for debt (on bond) of which

you will serve the said defendant Harriet R. Allsbury, adm'x, with the accompanying copy of said petition.

Witness the Hon. Thomas H. Duval, Judge of said court, and seal of court at the city of Austin, this 28 day of Feb'ry, A. D. eighteen hundred and fifty nine, and 83d year of the Independence of the United States of America.

[SEAL.] MATTHEW HOPKINS, Clerk.

(Return.)

The marshal's return is endorsed thereon in words, to wit: Came to hand, March 7, 1859. Executed on the 12th of the above named March, by handing in person to the within named defendant, Harriet R. Allsbury, a true copy of the within citation, and a like copy of the petition in the case, both certified by the court.

WM. C. YOUNG, U. S. Marshal, W. D. Texas,
By SAM'L NEWTON, Deputy.

85 miles,	$4 98
Service,	2 00
	$6 98

Service filed and entry March 25, 1857, M. Hopkins, and afterwards, to wit, on the 9th day of June, A. D. 1859, the following entry appears upon the minutes of the court.

(Entry Continued.)

THE UNITED STATES
vs.
The Administrator and administratrix of HANSON ALLSBURY, dec'd. } 525.

Now on this day came the parties by their respective attorneys, and on motion of defendant's counsel, objected to by pl'ffs, it was ordered, the objections being overruled, that this case be continued as on the affidavit of defendant.

And afterwards, to wit, at the January term, A. D. 1860, to wit, on the 19th day of January, A. D. 1860, came the defendants by their counsel, Geo. W. Paschal, and filed their answer herein, which is in words, to wit:—

(Of Answer.)

Answer, filed Jan'y 19th, 1860. M. HOPKINS, Clerk.

THE UNITED STATES
vs.
ALLSBURY, and Adm'r of HANSON ALLSBURY. } Endorsed, No. 525.

(Paschals.)

And which answer is in words, to wit:—

(Answer.)

THE UNITED STATES
vs.
ALLSBURY and Adm's of HANSON ALLSBURY. } No. 525.

And now on this day come the defendants and deny all and singular the allegations in the plaintiff's petition, and put themselves upon the county, &c.

And for further answer these defendants say that the said account referred to by the plaintiff is not stated to be for deficiencies stated upon the bond upon which these defendants are sued.

And for further answer these defendants say that they are not chargeable for a part of said balance, for this, to wit: that while the said Dashiell was the paymaster of the United States army, in the discharge of his duties, to wit, at Charleston, in the State of South Carolina, on the fifteenth day of June, A. D. 1857, the said Dashiell received from the custom-house officer of the United States for the district of Charleston the sum of twenty-eight thousand dollars in gold, contained in canvas bags, for the purpose of paying off the troops of the United States at Forts Dallas, Key West, and Capron, in the State of Florida; and thereupon the said Dashiell, because charged as agent, officer, and paymaster of the United States, in the proper discharge of his duty to go to Indian River and other places in Florida in order to disburse said money as agent of the United States, and on his proper journey the said Dashiell was compelled to stop at Pilatka, in Florida, and to remain for several days at a hotel, awaiting passage, and while remaining at Pilatka, in Florida, with the money under his care and keeping, and in the exercise of proper diligence as paymaster and agent of the United States, he, the said Dashiell, was robbed of a large portion of said money, to wit, thirteen thousand dollars; and the said Dashiell, after the most diligent search after said money, was only able to recover the sum of three thousand three hundred and twenty-five dollars of said money; wherefore they say that the loss of the remaining sum of nine thousand six hundred and seventy-five dollars should not properly fall upon the defendants, but upon the United States; and they claim a deduction for said sum so lost while in the exercise of due diligence in taking care of the money of the United States, as its officer and agent.

All of which facts they are ready to verify, and therefore pray judgment, &c. J. A. & G. W. PASCHAL,
Att'ys for Def'ts.

(Of Amended Plea Def'ts.)

And afterwards, to wit, on the ensuing day, the 20th January, 1860, leave of the court being first obtained, the following amended plea of the defendants was filed, indorsed: 525. United States *vs.* Administrators of Hanson Allsbury et al. Amended plea. Filed

January 20th, 1860. M. Hopkins, Clerk. Which amended plea is in *in* words to wit:—

In United States District Court, for January Term, 1860.

THE UNITED STATES
vs.
HARRIET R. ALLSBURY and JAMES BURBANK, Administrators of HANSON ALLSBURY. } No. 525.

And now come the defendants and plead (*puis darrein continuance*), and say that since filing their answer a trial has been had in this court upon the bond, and the very same alleged balance claimed in plaintiff's petition, against the principal, Jeremiah Y. Dashiell, and his other surety, Isaiah A. Paschal, and after hearing the evidence in the case, the jury returned a verdict in favor of the third or special plea pleaded by these defendants; and by the facts and said finding the jury allowed the said Dashiell a credit for the sum of nine thousand six hundred and seventy-five dollars, the amount alleged to have been stolen from said Dashiell at Pilatka, in Florida; and by said verdict the jury only found against said Dashiell the sum of ten thousand three hundred and eighteen dollars and twenty-two cents, for which sum, on the same day and year last aforesaid, the plaintiff recovered judgment against said Dashiell and Paschal upon the very same bond.

And therefore these defendants say that, at most, the plaintiff could only have judgment against them for the same sum, without costs. All of which they are ready to verify, and pray judgment, &c.

J. A. & GEO. W. PASCHAL,
Att'ys for Defendants.

(Of Demurrer of Pl'ff.)

And on the same day, to wit, 20th January, A. D. 1860, the plaintiffs, by their attorneys, Warren, U. S. Dist. Att'y, and Robards, assisting counsel, filed their demurrer to the answers of the defendants, which is in words, to wit:—

(Plaintiff's Demurrer.)

THE UNITED STATES
vs.
H. R. ALLSBURY et al.

And now comes the said plaintiff, and demurs to the defendants' answer, and says, that the matters and things therein contained are not sufficient to sustain the several defences therein set up, and pray judgment, &c.; and for special demurrer make the following assignments:—

1st. The defendants' Principal, Dashiell, has not presented his claim to the accounting officers of the treasury for examination or

allowance; nor shown reason for now doing so; and cannot be set up by way of set-off or reduction of damages.

2d. Because a claim on a ground of robbery is not a subject of set-off.

3d. Because the plaintiff is not bound in this suit by the judgment of the court in any other cause.

WARREN, U. S. Att'y, and
ROBARDS, for Plaintiff.

Endorsed: Demurrer; filed Jan. 20th, 1860.

M. HOPKINS, Clerk.

(Charge of the Court.)

And on the same day, as it appears by the record, the court having overruled the demurrer of plaintiffs to the amended plea and answer of the defendants, and the plaintiff and defendants having filed their several pleas of exceptions, the case went to the jury under the following charge from the court, which is in words, to wit:—

THE UNITED STATES
vs.
ALSBURY'S LEGAL REPRESENTATIVES.

This suit is brought against the representatives of Hanson Allsbury, deceased, to recover a certain amount claimed against him as one of the securities on the bond of Jeremiah Y. Dashiell, late paymaster in the United States Army.

The same charges as upon the law of the case, which was given in the suit of the United States *vs.* Dashiell & Paschal on yesterday, are now given to the jury, except that the declaration of Major Dasheill, as to the fact of an alleged robbery upon him, and the admissions made by a negro slave, or slaves, touching the same, are not now excluded, but may be considered by the jury. In addition to this, the verdict and judgment rendered on yesterday in the suit above mentioned, showing a finding of $10,318 22 in favor of the United States, is in evidence before you; and this is so far conclusive that you cannot render a greater verdict against the security in this case, unless you believe the additional facts now in evidence will so authorize you.

Acting upon these instructions, the jury will return their verdict.

THO. H. DUVAL, U. S. Dist. Judge.

Endorsed: Filed Jan. 20, 1860.

M. HOPKINS, Clerk.

The charge of the court in the case of the United States *vs.* Jeremiah Y. Dashiell and Isaiah A. Paschal referred to in the above charge in this cause, is in words, to wit:—

"One of the assigned breaches of the bond is, that said Dashiell has failed to pay over or account for a large amount of public money which had been placed, or came into his possession and custody for

disbursement, as paymaster aforesaid; and a balance of $20,085 74 is claimed by the petition to be due from him and his security accordingly.

"The defendants, by their answer, deny generally all indebtedness, and, in addition thereto, plead specially that defendant, Dashiell, without any fault or negligence on his part, was robbed of $13,000, at Pilatka, in Florida, of the money now sued for by the Government, and for which he claims to be entitled to a credit.

"In proof of the amount alleged to be due from the defendant, Dashiell, the United States has introduced certain transcripts from the books and proceedings of the Treasury Department. The transcript, marked 'B,' shows the particulars or items of the alleged indebtedness, and at page 50 thereof will be found what purports to be the closing settlement, exhibiting the balance claimed to be due to the U. States (being $19,051 31) to which is added a charge for interest up to the date of that settlement (see pages 53 and 54 of the manuscript), being $1000 01—making an aggregate shown to be due said transcript of $20,051 32, on the 15th September, 1858.

"The transcript marked 'C,' shows what purports to be certified copies of requisitions drawn by the War Department on the Treasury in favor of Paymaster Dashiell; and transcript marked 'D,' exhibits what purports to be copies of drafts and warrants drawn by the Treasury Department in favor of Paymaster Dashiell, with his receipts on the same.

"These transcripts being duly and properly authenticated, are made evidence before the jury, by virtue of an act of Congress, and the amount shown to be due from the defendant by transcript B, on the final account stated therein, must be regarded as *prima facie* correct. But this presumption is not conclusive. The jury have the right to look over and examine all the accounts, and if they believe there is any error therein apparent on the face of the transcript, or otherwise shown by the evidence before them, as for instance, the charging of the defendant with money not received by him in the ordinary discharge of his duties and obligations as paymaster, it is their duty to consider and act upon the same in rendering their verdict.

"In the absence of any proof to satisfy the jury that the amount sued for by the government is incorrectly stated, or claimed, or that defendant Dashiell is entitled to any deduction therefrom, or credit thereon, they will return a verdict for the plaintiff for the sum shown to be due by the transcript marked B, and in doing so, they will take the amount shown to be due by Maj. Dashiell, on the final account rendered by myself (see page 48 of the transcript), being $19,085, 73. From this deduct $34 42, which the United States admit he overcharged against himself. Then add to the amount thus reduced, the interest at six per cent. per annum on $13,000 from the 25th Nov., 1857, and on $6,050 85, from the 4th August, 1857, up to the present time, and return a verdict for the sum so found.

"As to the credit claimed by the defendant Dashiell for an alleged robbery of a portion of the amount sued for by the United States, I have to instruct the jury that the ordinary rules of law governing cases of a simple deposit of money, in which the depositary is only responsible for *ordinary neglect*, is not applicable to a case of this kind. Paymaster Dashiell was not a mere bailee without reward. His bond required him to take charge of, and account for public moneys coming into his hands in the ordinary scope and discharge of his duties, and he was paid commissions for so doing. It was his duty, therefore, to exercise the greatest degree of vigilance and care in taking care of such public funds. This is demanded by the law, as well as public policy, and the slightest want of care or vigilance, under such circumstances, rendered him responsible. To entitle the defendant to a deduction from the amount for which he is now sued, on the grounds of a robbery, the jury should be satisfied of two things from the evidence.

"1st. That a robbery was in fact committed as alleged, and that the amount of public money was stolen from him as charged; and,

"2d. If satisfied of these facts, then the jury should be further satisfied from the evidence that such robbery did not occur from any want of due care and vigilance on the part of the defendant, in its preservation and safe keeping. In determining whether a robbery was committed, as is charged by the defendant, the jury must exclude from their consideration the declaration of the defendant, Dashiell, made to this effect. This is not legal evidence, he being a party interested. Now will it be proper to take into consideration any declarations or admissions made by negro slaves, as contained in the depositions which have been read before the jury.

"The jury will, therefore, return such a verdict as they deem to be warranted by the evidence and these instructions.

THO. H. DUVAL, U. S. Dist. Judge."

And on the same day last aforesaid, to wit, on the 20th January, A. D. 1860, the following entry appears upon the minutes of the court, to wit:—

Friday, January 20th, 1860.

THE UNITED STATES
vs.
The Administrator and Administratrix of HANSON ALLSBURY, dec'd. } No. 525.

Now, on this day, came the parties by their attorneys, the United States by James F. Warren, Esq., and Robards, her attorneys, and the defendants by Geo. W. Paschal, of counsel for the defendants, and thereupon the defendants move the court for leave to file an amended plea, and leave being granted, and the amended plea filed: The plaintiffs demur thereto, and after hearing, the demurrer being over-

ruled by the court, now came a jury of twelve good and lawful men of the Western District of Texas, duly called, accepted, empanelled, and sworn, to wit: W. O. Hutchinson, Thomas H. Espy, James Stewart, Thomas B. Huling, W. H. Lewis, A. J. Ridge, Job Hobbs, J. Antonio Navarro, O. Flusser, George G. Hubbard, B. G. Goodrich, and A. H. Barnes, who having heard the evidence and the argument of counsel, and received the charge of the court, retired and returned into court the following verdict: The same being under the consent of counsel and the instruction of the court, returned to the clerk, to wit:—

(Verdict.)

We the jury find for the plaintiff the sum of $10,318 22.

W. O. HUTCHINSON, Foreman.

And afterward, to wit, on Monday, the 23d of January, A. D. 1860, the following entry appears of judgment upon the minutes of the court:—

(Judgment.)

Monday, January 23d, 1860.

THE UNITED STATES
vs.
The Administrator and Administratrix of HANSON ALLSBURY, dec'd, } 525.

In this cause the jury having returned, and the consent of counsel and the instruction of the court, their verdict to the clerk, recorded in the minutes of Friday, it is therefore considered by the court that the plaintiff, the United States, have and recover of James Burbank and Harriet R. Allsbury, the administrator and administratrix of Hanson Allsbury, deceased, late one of the securities of Jeremiah Y. Dashiell, the sum aforesaid so found by the jury, to wit, ten thousand three hundred and eighteen dollars $\frac{22}{100}$, together with all their costs in this behalf expended, to be taxed by the clerk, and for which execution may issue.

On the 21st day of January, A. D. 1860, the plaintiffs filed their motion for a new trial, which is endorsed, to wit:—

THE UNITED STATES
vs.
Administrator and Administratrix of HANSON ALLSBURY, dec'd. } No. 525.

Motion for new trial. Filed January 21st, 1860.

M. HOPKINS, Clerk.

And which motion for new trial is in words, to wit:—

(Motion for New Trial.)

In the United States District Court sitting at Austin, in and for the Western District of Texas.

525. THE UNITED STATES, plaintiff, vs. ALLSBURY'S Administrator et al., defendants. } Debt on Bond.

And now comes the said plaintiff and moves for a new trial in said cause—

1st. Because the verdict of the jury was contrary to the law and the evidence in the case.

2d. Because the charge of the court was contrary to law.

3d. Because the court permitted the introduction of illegal testimony.

JAMES WARREN, U. S. D. A., and ROBARDS & ROBARDS, for motion.

Contra: J. A. & G. W. PASCHAL.

And on the same day and time the plaintiffs filed their motion in arrest of judgment, which is endorsed to wit:—

THE UNITED STATES vs. Administrator, &c. of ALLSBURY. } No. 525.

Motion in arrest of judgment. Filed Jan'y 21st, 1860.

M. HOPKINS, Clerk.

Which motion in arrest of judgment is in words, to wit:—

(Motion in arrest judg't.)

In the United States District Court, sitting at Austin, in and for the Western District of Texas.

THE UNITED STATES, plaintiff, vs. ALLSBURY'S Administrator et al., defendants. } Debt on Bond.

And now comes the said plaintiffs and move the court in arrest of judgment—

1st. Because the court erred in the permitting the introduction of illegal evidence.

2d. Because the court erred in overruling the demurrer to defendants' last plea filed.

3d. Because the court erred in overruling the motion for a new trial, for the reasons therein assigned.

JAMES WARREN U. S. Dist. Atty.

ROBARDS & ROBARDS, per motion,

Contra, J. A. & G. W. PASCHAL.

(Order overruling same.)

Both of which motions were overruled by the court, by the endorsement on the motion docket, in which they severally appear, in words to wit: "The above motion overruled."

T. H. DUVAL.

And in like manner the motion in arrest of judgment. "The above motion overruled."

T. H. DUVAL.

The plaintiff's bill of exceptions filed before the jury left their box, as aforesaid, on the 20 January, A. D. 1860, is endorsed to wit:—

(Plff's Bill of Exceptions.)

THE UNITED STATES
vs.
Administrator and Administratrix of HANSON ALLSBURY, dec'd. } 552.

Plaintiffs' bill of exceptions, filed January 20th, 1860.

MATTHEW HOPKINS, Clerk.

And is in words, to wit: In the District Court of the United States, sitting at Austin, in and for the Western District of Texas.

THE UNITED STATES, plff's,
vs.
Admin. and Adx. of HANSON ALLSBURY, deceased, def'ts.

Be it remembered, on the trial of the above stated cause, the plaintiff excepted to the plea of *puis darrein continuance*, and judgment in another cause, as follows (see pages 12 and 13, for plea *puis darrein continuance*, and pages 13 and 14 for *demurrer*), and the court overruled the *demurrer*, to which overruling the plaintiff then and there excepted. The plaintiff then read in evidence the bond sued on, which is as follows, to wit: (see Defendant's Bill of Exceptions, Exhibit "A.")

The plaintiff then offered and read in evidence an authenticated copy of the account of the defendant Dashiell with the treasury, showing a balance against him as paymaster, in favor of the treasury, of $\$19{,}085\frac{72}{100}$, on the 31st day of March, 1858, and also an authenticated copy of the account of the treasury with defendant Dashiell, showing a balance against him as paymaster, on the 20th April, A. D. 1858, of $\$19{,}051\frac{31}{100}$, also a statement of the department showing the balance due the treasury by defendant Dashiell, including interest on sums received by him, and which he had failed to pay over, amounting in all to $\$20{,}085\frac{74}{100}$, on the 18th September, A. D. 1858. The said several accounts showing the several

items in full and complete detail, with which defendant was chargeable, and copies of vouchers accompanying. The plaintiff then offered and read in evidence authenticated copies of the requisitions made by defendant Dashiell, and warrants drawn by him, in support of said account, and closed his case.

Whereupon the defendant offered to read in evidence the deposition Henry R. Teasdale (Exhibit "B"), of James Burt (Exhibit "C"), of Private Rowles (Exhibit "E"), of Jas. O. Devall (Exhibit "D"), of Capt. Vogdes (Exhibit "F"), and proceedings in a Justice of the Peace Court of Florida (Exhibit "G"). To the reading of all this evidence the plaintiff objected generally, and moved to exclude the same from the jury.

1st. Because all of said evidence tended to prove an alleged robbery of $13,000 from defendant Dashiell as paymaster, plead by way of set-off or reduction of damages, which could not be a subject of set-off.

2d. Because all of said evidence tended to prove a set-off, but the defendant was not in proper position to offer such evidence, not having laid the predicate therefor in this. The principal *Dashiell* had not presented his claims to the accounting officers of the treasury to be examined and allowed or disallowed, nor shown and excuse for not doing so, nor offered any proof to that end. The court overruled the objections and motion, and permitted all the before mentioned evidence to be read, which is as follows, to wit:—

Exhibit "B" being the deposition of Henry R. Teasdale, Exhibit "C" being the deposition of James Burt, Exhibit "D" being the deposition of Jas. O. Devall, which depositions are in words, to wit:—

United States of America,

District Court of the United States for the Western District of the State of Texas.

UNITED STATES OF AMERICA
vs.
JEREMIAH Y. DASHIELL and ISAIAH A. PASCHAL.

District of Western Texas.

On this 19th day of November, A. D. 1859, personally appeared before me, John C. McMullen, Clerk of the Circuit Court for the county of Putnam, in the State of Florida, and ex-officio Judge of Probate in and for said county, Jeremiah Y. Dashiell, who, being by me duly sworn, deposes and says that he is one of the defendants in the above entitled cause, that said cause is pending in said court, that James O. Devall, Henry R. Teasdale, and Jame Burt, of the town of Pilatka, in the county of Putnam, and State of Florida, and Howell A. Baisden, of the town of Starks, in the county of Alachua, in the State of Florida, are material witnesses for the defendant, whose testimony is necessary in said cause and on the trial thereof, as the deponent is advised and believes; and further that said witnesses James

O. Devall, Henry R. Teasdale, and James Burt, reside at Pilatka, in the county of Putnam, in the State of Florida, and the said witness Howell A. Baisden resides at Starke, in the county of Alachua, in the State of Florida, and that said witnesses reside at a greater distance than one hundred miles from the place of trial of said cause. And deponent further says that he is informed and believes that there is no attorney of the United States within one hundred miles of the place of taking the depositions of said witnesses, or either of them, that the place where the examination of the said witnesses is expected to be taken is in the town of Pilatka, in the county of Putnam, in the State of Florida. J. Y. DASHIELL.

Subscribed and sworn before me, this 19th November, A. D. 1859.
[SEAL.] JNO. C. M'MILLAN,
Clerk Circuit Court, Putnam County, Fla.

United States of America, District Court of the United States for the District of Western Texas.

District of Western Texas.

UNITED STATES OF AMERICA
vs.
JEREMIAH Y. DASHIELL and ISAIAH A. PASCHAL.

Let James O. Devall, Henry R. Teasdale, James Burt, and Howell A. Baisden, the witnesses named in the foregoing affidavits, be examined *de bene esse* before me accordingly at Pilatka, in the county of Putnam, in the State of Florida, on the 19th day of November, A. D. 1859, at 10 o'clock A. M.

United States of America, District Court of the United States for the Western District of Texas.

District Court of Western Texas.

UNITED STATES OF AMERICA
vs.
JEREMIAH Y. DASHIELL and ISAIAH A. PASCHAL. } 55.

Be it remembered, that by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; "An act in addition to an act entitled an Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817; and the act entitled "An act to establish the Judicial Courts of the United States," passed September 24th, 1789: I, John C. McMillan, Clerk of the Circuit Court for the county of Putnam, in the State of Florida, and ex-officio Judge of Probate in and for said county of Putnam, residing at Pilatka, in the said county of Putnam, in the State of Florida, after having by order previously appointed the day for the examination in accordance with

said order, have this day caused to come before me James O. Devall, Henry R. Teasdale, and James Burt, the witnesses named in the above entitled cause, to be examined on the application and on the part and behalf of Jeremiah Y. Dashiell, the defendant in said cause now pending in the United States Court in and for the Western District of the State of Texas; and I further certify that said witnesses, James O. Devall, Henry R. Teasdale, and James Burt are each of them persons of sound mind and lawful age; and that after being by me first carefully examined and cautioned, and sworn to testify the whole truth and nothing but the truth:

(Deposition H'y R. Teasdale. Ex'bt "B.")

Henry R. Teasdale did depose and say, that he is forty years of age; that he resides at Pilatka, in the county of Putnam, and State of Florida; that his trade or occupation is that of a merchant: and the said James O. Devall did depose and say that he is fifty-two years of age; that he resides at Pilatka, in the county of Putnam, in the State of Florida; that his trade or occupation is that of a hotel keeper, &c.: and the said James Burt did depose and say that he is thirty years of age; that he resides at Pilatka, in the county of Putnam, in the State of Florida; that his trade or occupation is that of a banker.

And the said Henry R. Teasdale deposes and answers as follows to the interrogatories hereunto attached.

(Answer to First Interrogatory.)

To the first interrogatory he deposes and says as follows: He is acquainted with Major Dashiell. He has been acquainted with him since forty-six or seven, at New Orleans, and since.

Answer to second interrogatory. He answers, that he, Major Dashiell, was here about that time.

Answer to third interrogatory. He answers, that he knew as an acquaintance, and believed him to be on his tour of payments to the United States troops at Indian River; while here, at Pilatka, he stopped at James O. Devall's house. He can't state how long the the Major was here. He was here as a public officer. I have always known him as a paymaster in the United States army, and believed him to be in Pilatka in the discharge of his official duties.

Answer to the fourth interrogatory. He answers, he was accompanied by a soldier, and I should think as an escort.

Answer to the fifth interrogatory. He answers, that some time in August, A.D. 1857, I learned that a sum of money *in gold* had been taken from some negroes in this town by the town marshal, &c., &c. On the return of Col. James O. Devall, from Savannah, bringing back his negro boy Washington, *he* told me that the boy confessed to having robbed a gentleman in his house some weeks previous of a large amount of money, whom he identified as accompanied by a soldier, and as I have above stated, moneys having been found in the

possession of other negroes, he desired me to aid him in investigating the circumstances connected with it.

Col. Dawkins, the State Solicitor for the Judicial Circuit, conducted the examination, assisted by Col. Hickman, Col. Devall and myself.

Washington, the negro's statement, was substantially this, that taking advantage of the temporary absence of the major from his chamber just before he (the major) was to leave for Enterprise on the steamer, that he, Washington, entered the travelling bag, the same being in the room and *at the time locked*, and abstracted certain moneys therefrom, which moneys he hid between the mattresses of the bed until night gave him an opportunity further to secrete them. He counted the money on reaching his room, and found the sum to be four thousand five hundred dollars ($4,500 00). In the investigation the evidence elicited nothing that could be relied on. The statement of the boy, likewise of the several negroes, and there were a great many implicated or suspected, was contradictory to each other, and in nearly every instance contradictory and prevaricating in itself. After investigation the matter for days continuously, and from time to time since, nothing has been developed beyond the recovery of the sum of money, three thousand two hundred and forty dollars, by the town marshal as referred to above, not from the boy Washington, but from other negroes, and a small additional sum obtained since, by Col. Devall from a third party of negroes, making altogether recovered three thousand three hundred and twenty-five dollars ($3,325 00), which has been turned over to Major Dashiell. Col. Dawkins has since removed to Gainesville, in this State, and Col. Hickman to his plantation, some distance from this place; neither of these gentlemen are now in this place.

To interrogatory numbered six he says: That he as well as he recollects the money consisted of five dollar gold pieces of the United States coin. The answer to this interrogatory is embraced in the answer to the foregoing interrogatory.

To interrogatory numbered seven he says: That there were confessions made by the negro boy Washington that he took the money as stated in the answer to the fifth interrogatory. The confessions were voluntary to the questions asked by deponents. There was no undue influence used to induce the negro to make the confessions.

HENRY R. TEASDALE.

(Deposition of Jas. Burt, Exh. "C.")

James Burt being sworn as said witness in the aforesaid cause says, in answering, as follows to the interrogatories hereunto attached:—

To 1st interrogatory he says: That he is acquainted with the defendant, Major Dashiell. He made his acquaintance in October, A. D. 1857, and has been acquainted with him since that time.

To 2d interrogatory he says: Not at that time.

To 3d interrogatory he says: That did not know him in June, but

he made his acquaintance when here to investigate his losses. He stopped here at Col. Devall's hotel, where he stopped about a week. He was here as paymaster of the United States Army. It was official. He was a paymaster, and was engaged in discharging his duties as such. He was accompanied by a soldier as an escort. Major Dashiell was here in October, A. D. 1857, when I made his acquaintance. He was here for the purpose of investigating losses which he had sustained or professed to have sustained. Previous to Major Dashiell's arrival here in October, 1857, money in the shape of gold coin had been found in the possession of negroes. This money was recovered from the possession of the negroes by the sheriff, who was also acting as town marshal, and he deposited the money with me, the deponent. I think it was thirty-two hundred and forty dollars, for which I gave a receipt to him as marshal of the town. Shortly after I was ordered by the magistrate to hold the money until further order should be received from him. On the affidavit of James O. Devall, making known the fact that money was stolen out of his house, T. S. Haughton, a justice of the peace, officially notified me to retain the money until it should be determined who was the rightful owner of the money left with me as a deposit by Howell A. Baisden, the town marshal.

Afterwards, the magistrate, T. S. Houghton, investigated the matter, and it was proved to his entire satisfaction, that this money belonged to the defendant, Major J. Y. Dashiell, paymaster of the United States Army; and the said magistrate issued an order, commanding me to deliver said money to Major Dashiell, on the order of the magistrate; and the marshal, also, gave up, and surrendered my receipt of deposit at the same time.

Answer to fourth interrogatory. He says that he has stated the facts in this interrogatory, in the answer to the last foregoing interrogatory.

Answer to 5th interrogatory. Deponent says that his acquaintance did not extend so far back as June, 1857.

Answer to 6th interrogatory. There was a large amount of money discovered. The amount which came to my knowledge, was three thousand two hundred and forty dollars, besides other smaller amounts at a subsequent time. The kind of money was American gold half eagles. The discovery was made by the town marshal, H. A. Baisden, as I learned. He has no personal knowledge how the money was discovered. The marshal brought the money to me about daylight, on the morning following the night when found. He has stated fully in answer to 3d interrogatory.

Answer to 7th interrogatory. He says that he has no personal knowledge of the matters inquired of by this interrogatory.

JAS. BURT.

(Exhibit D. Depositions of Jas. O. Devall.)

James O. Devall, one of the foregoing witnesses, in said cause mentioned, after being duly sworn, deposes and answers as follows, to the interrogatories hereto attached.

Answer to first interrogatory. He answers, that he is acquainted with the defendant, Jeremiah Y. Dashiell. He became acquainted with him at this place, Pilatka, for the first time, in June, A. D. 1857, and has been acquainted with him since that time.

Answer to 2d interrogatory. He answers, Yes!

Answer to 3d interrogatory. He says that the said defendant was here as paymaster of the United States troops, and he was then on his way to Indian River to pay off troops. He stopped with me in his, deponent's, hotel. He, the said Dashiell, stopped one night, and left for Indian River the next morning. He was a paymaster in the United States Army, and he was then acting in his official capacity, in the discharge of his said office.

Answer to the 4th interrogatory. He was accompanied by a soldier as an escort.

Answer to 5th interrogatory. He says, Major Dashiell left Pilatka on the 22d June, 1859, for Indian River, and he returned here on the 8th of July following. He, on his return, did not mention any loss of money. He, Major Dashiell, left here on the next day, the 9th July. Some time in the month of August, about the middle of the month, in the year 1857, money, consisting of gold coin, was found on or near his premises, under circumstances which raised a violent presumption that the money was stolen by his boy, called Washington, who confessed that he stole the money from Major Dashiell. Washington stated that he stole four thousand five hundred dollars from Major Dashiell. Not any of the money was found in Washington's possession. The money passed through the hands of several negroes; and from all the circumstances connected with this matter, the probability is quite evident, that all the money which was stolen was not nor ever has been recovered. When he, the deponent, found that the money was stolen, and that there were several negroes implicated, he at once placed the subject before Col. Dawkins, the States Solicitor, and he investigated the matter of the theft, aided by Mr. Teasdale and Col. Hickman, together with the deponent. When the deponent found that the town marshal found the money, and placed it on deposit in the bank, and from the fact that there was reason to believe that the money was stolen from Major Dashiell, the deponent took steps to secure the deposit by making complaint to a justice of the peace, who restrained or caused the money to be retained, in order to secure it to the rightful owner; and, afterwards, the justice of the peace, in investigating the subject on the evidence laid before him, decided that the money was stolen from the possession of Major Dashiell; and he, the said justice of the peace, ordered the money to be restored to Major

Dashiell, which was accordingly done. The deponent assented to the order of the justice of the peace, making the order to restrain the money from being paid to any other person than to Major Dashiell, who was entitled to the possession thereof. Deponent states that the boy Washington said he took the money from a person, who he described, in every particular, as corresponding with Major Dashiell; and, from all the facts connected with the matter, as well as the confessions of Washington, the money was stolen on the morning of the 22d of June, A. D. 1857.

Answer to the sixth interrogatory. He says there was a large amount of money discovered, to wit, three thousand two hundred and forty dollars, by H. A. Baisden, town marshal, in the possession of negroes belonging to deponent, Gov. Mosely and Capt. Gray. It was found in Pilatka, on the 12th of August, 1857, in the town of Pilatka, Florida. Baisden, who found this money, deposited it in bank. Small sums of money were found by deponent afterwards, and by him paid to Major Dashiell. Deponent recovered eighty-five dollars. It came to the deponent's knowledge, that an intimate relation or connection at the time existed between the boy Washington and certain traders, from the fact that deponent discovered that he purchased considerable clothing, jewellery, &c.; and in this way, it is presumed, that he spent much of the money stolen. This discovery came to his knowledge during the investigation, as before stated; but the evidence was deemed insufficient to justify the arrest of the said traders as accessories, or for their prosecution for unlawfully dealing with slaves. During the same time that this money was stolen, Lieut. Stevens, of the army, stopped at deponent's hotel, and this boy Washington stole a bonnet from him, the said Lieut. Stevens.

Answer to interrogatory number seven. There were confessions made by the boy Washington and other negroes; the confessions were entirely voluntary, and without any coercion or undue influence.

JAS. O. DEVALL.

And I, the said John C. McMillan, Clerk of the Circuit Court for the county of Putnam and ex-officio Judge of Probate in and for the said county aforesaid, do certify that the causes or reasons alleged and appearing by affidavits before me for taking said depositions, that the testimony of said witnesses was material and necessary on the trial of said cause; and that said witnesses resided more than one hundred miles from Austin, in the State of Texas, the place of holding the court for the trial of said cause. And I also certify, that no notice was given or served on any attorney of the United States, for the reason that no attorney of the United States resides or is within one hundred miles of the place of taking said depositions. And I further certify, that the said depositions were reduced to writing by me; after being so reduced to writing, they were carefully read over to said witnesses, after which they subscribed the

same as their sworn testimony, to be used in said cause and on the trial thereof. And I further certify, that I am not of counsel or attorney for either of the parties to the said suit, or in any wise interested in the event of said suit. And further, that I have retained said depositions in my possession for the purpose of sealing and directing the same with my own hand, and forwarding it to the court where said cause is pending for trial.

Given under my hand with the seal of my said office of judge of probate hereunto annexed, 19 day of Nov., 1859.

[SEAL.] JNO. C. McMILLEN,
Clerk Circuit Court and ex-officio Judge of Probate.

United States of America.

District Court of the United States for the Western District of the State of Texas.

UNITED STATES OF AMERICA
vs.
JEREMIAH Y. DASHIELL and ISAIAH A. PASCHAL.

Interrogatories to be propounded to James O. Devall, Henry R. Teasdale, and James Burt, and Howell A. Baisden, residing in Pilatka, county of State of Florida, witnesses in the above entitled cause, on the part of the defendants; the answers thereto, when taken, to be read as depositions in evidence in the trial of said cause in behalf of said defendants.

Interrogatory 1st. Are you acquainted with the defendant in this cause? If yea, at what time and place? And how long?

Inter'y 2d. Did you know him on or about the 22d day of June, A. D. 1857, in the town of Pilatka, Florida?

Inter'y 3d. If yea, how did you come to know him, and how did he happen to be at Pilatka, what the object or purpose of it, and while there, where did he stop, and how long did he stop, if any, what character or relation did he sustain, whether private or public, official or unofficial? State whether he was a paymaster of the United States or not, and whether he was not there engaged in discharging his duties as such.

Inter'y 4th. Was defendant accompanied by any one? If yea, state by whom, and in what capacity or relation, whether as an escort or not.

Inter'y 5. After defendant left Pilatka, did anything occur of an extraordinary character connected with him, or involving his pecuniary interests? If yea, what was it, and what the circumstances of it, times, persons, places, the things done or said fully and minutely.

Inter'y 6th. Was not a large amount of money discovered? If yea, what amount, and whether coin or otherwise; if the former, what the size of the pieces generally, and how was the discovery made, by whom made, at what times, and places, with whom was it

found, and what disposition was made of it? State everything you know fully and minutely.

Inter'y 7th. Were any confessions concerning said money made by any person or persons? If yea, who the person or persons, and what the confessions so made, and how came they to be made, under what circumstances, whether voluntary or not, whether with or without any undue influence?

JEREMIAH Y. DASHIELL,
GEO. W. PASCHAL, Atty.

(Exhibit " G." Proceedings in Justice of P. Court.)

Attached to the depositions and contained in same envelope, the following in words, to wit:—

Agency Bank of Charleston, Pilatka, August 12th, 1857. Received from H. A. Baisden, Marshal of the town of Pilatka, Florida, one box, containing three thousand two hundred and eighty dollars in good coin, and two watches, as a special deposit.

JAMES BURT, Agent.

This receipt is to be returned when the special deposit *is called for.*

The amount of money delivered to Maj. J. Y. Dashiell, U. S. A., Oct. 24, 1857, by order of magistrate T. S. Haughton, was three thousand two hundred and forty dollars, there having been an error in counting at the time of deposit of forty dollars.

JAMES BURT, Agent.

State of Florida, Putnam County.

In the name of the State of Florida. Whereas James O. Devall, has this day personally appeared before me, and made oath that Howell A. Baisden, a marshal of the town of Pilatka, did on or about the 11th day of August, 1857, deposit with you the sum of three thousand two hundred and eighty dollars in gold coin as a special deposit, which the said Devall has cause to believe was feloniously taken from the dwelling of said Devall. This is, therefore, to command you to retain in your possession the said sum of three thousand two hundred and eighty dollars in gold coin, until it can be satisfactorily who is the rightful owner thereof. Given under my hand and seal, this 17th day of August, 1857.

T. S. HAUGHTON, [SEAL.]
Justice of the Peace.

State of Florida, Putnam County.

In the name of the State of Florida. To James Burt, Esq., ag't, &c. Whereas, it appears from testimony taken before an examining committee that the sum of three thousand two hundred and eighty dollars in gold coin, which was on the twelfth day of August, A. D. 1857, deposited with you by H. A. Baisden, marshal, and which upon affidavit of James O. Devall, you were on the 17th day of

August, A. D. 1857, served with notice commanding you to retain in your possession said sum of gold coin, until satisfactorily proven who was the rightful owner thereof. It appearing from said examination that Major J. Y. Dashiell, a certain paymaster in the United States Army, is the rightful owner of said gold coin deposited as aforesaid. Now, therefore, you are commanded to pay *pay* over to said Dashiell the said sum of three thousand two hundred and eighty dollars, the said Devall having consented that he is satisfied fully that no other than said Dashiell is the rightful owner.

Given under my hand and seal this 24th day of October, A. D. 1857. T. S. HAUGHTON, [SEAL.]
Justice of the Peace.

I, James O. Devall, assent fully to the foregoing order.
JAS. O. DEVALL.

State of Florida, Putnam County.

I, John C. McMillen, Clerk of the Circuit Court, in and for said county, do hereby certify that the foregoing is a true and correct copy of the original papers, now in the possession of James Burt. I further certify that T. S. Haughton was an acting justice of the peace at the time of his signing the foregoing, duly commissioned and qualified, and that full faith and credit are due to all his official acts as such.

In testimony whereof I have hereunto set my hand and official seal this the 19th day of November, A. D. 1859.

[SEAL.] JNO. C. McMILLAN,
Clerk Circuit Court, Putnam County, Florida.

(Exhibits "E," and "F.")

United States of America, Eastern District of Virgina, City of Norfolk, *ss.*

Be it remembered, that on the 9th and 22d day of November, A. D. 1859, I, John T. Francis, commissioner, duly appointed by the Circuit Court of the United States for the Fourth Circuit and Eastern District of Virginia, under and by virtue of the several acts of Congress, passed February 20th, 1812, March 1st, 1817, and September 24th, 1789, did call and cause to come before me, at my office, in the city of Norfolk in the State and district aforesaid, John Rowles and J. Vogdes, to testify and the truth to say on the part and behalf of the defendants in a certain suit or matter of controversy depending in the District Court of the United States for the Western District of the State of Texas, wherein The United States of America are plaintiffs, and Jeremiah Y. Dashiell and Isaiah A. Paschal are defendants.

(Deposition of John Rowles.)

And the said John Rowles, being about the age of 26 years, having been by me first cautioned and sworn to testify the truth, the whole

truth, and nothing but the truth in the matter of controversy aforesaid, and being carefully examined, he, the said John Rowles, in reply to interrogatories propounded to him by the defendants, deposes and says as follows:—

Int'y 1st. Are you acquainted with the parties to this suit? If yea, when and where? State whether you knew defendant in June and July, 1857, and at what place or places.

Ans. I am acquainted with one of the parties to the suit, Mr. Dashiell; I first became acquainted with the defendant, Dashiell, while he was a paymaster in Florida. In June and July, 1857, I was detailed as an escort to accompany Major Dashiell, paymaster, from Fort Moultrie, South Carolina, to the troops on Indian River, Florida.

Int. 2d. What was then your calling, profession, or employment?

Ans. A soldier in the 1st regiment of U. S. Artillery Company "D."

Int. 3d. Were you or not engaged at that time for any particular service, person or purpose? If yea, what was the service and purpose, and who was the person?

Ans. I was ordered as an escort about the 18th or 19th of June, 1857, to guard the public funds in the possession of Major Dashiell, paymaster, on a tour of payment from Fort Moultrie, in South Carolina, to the U. S. troops on Indian River, in Florida.

Int. 4th. Were you or not detailed to defendant? If yea, in what manner, and for what reason or object?

Ans. According to my recollection I was ordered by the post adjutant, who was at the time Lieut. Jenkins, and in temporary command of company "D," to which I belonged; the reason and object of the order I have already stated in my reply to interrogatory 3d.

Int. 5th. What was the employment or profession of defendant himself?

Ans. Major in the army, and paymaster to the troops.

Int. 6th. Was he or not an officer in the U. S. Army? If yea, what sort of an officer, or what were his duties?

Ans. He was an officer in the U. S. Army, with the rank of major; and his duties were those of paymaster to the U. S. troops.

Int. 7th. Did he at that time have occasion to discharge these duties? if yea, in what manner, and in what place or places?

Ans. He did by going down to Indian River, in Florida, and paying the troops at Forts Capron and Jupiter.

Int. 8th. Was any public money intrusted to him? if yea, what amount, and for what purpose? State in what the money was carried, whether it was fit for the purpose, and such as was customary to use on similar occasions or not.

Ans. Yes; there was money intrusted to him; I do not know what amount; it was not counted in my presence; it was to pay off the troops in Florida. I went to the treasury office in Charleston with Major Dashiell, and there received the money in canvas bags; the number of bags I do not recollect; and the canvas bags were

then put in leather valise or portmanteau, such as is generally used for this purpose.

Int. 9th. Did you or not handle the leather valise which contained the money?

Ans. I did handle the valise containing the money in carrying it from the treasurer's office to the steamer Everglade, on the morning we left Charleston; but I did not handle it afterwards until after the loss of money was discovered.

Int. 10th. For what point or points was this money intended; what distance was it carried, what place or places did it reach, and what became of it?

Ans. The money was intended for Forts Capron and Jupiter to pay the troops. It was carried from the U. S. Treasurer's Office in Charleston, to the steamer for Pilatka, Florida; we stopped at Pilatka, and the valise containing the money was carried up to the hotel by the porter immediately in front of Major Dashiell and myself, who walked directly behind him and deposited in Major Dashiell's room at Col. Duvall's hotel. The next morning we left Pilatka, and went on in a steamer to Enterprise. The money bag was carried from the Pilatka Hotel to the steamer by the porter of the hotel, and deposited on the steamer in the state-room of Maj. Dashiell. On our arrival at Enterprise, Florida, another point on our route to Indian River, we were detained one day to wait for a mail wagon; and on the day subsequent to our arrival there, just before dinner time, the major called me into his room and informed me that he had lost a portion of his funds; he appeared to be much distressed; asked me particularly to try and recollect where the loss could have occurred; whether we could have lost the money on the steamer from Charleston or at Pilatka, or could have left the money at the treasury. It was impossible to say whether the money was left at the treasury, or the loss occurred at Pilatka; but I was satisfied it could not have occurred on the steamboat; I could not recollect the number of bags received at the treasury, and although the bags of money were replaced in the travelling bags, and I tested the weight several times, I was uncertain whether it was as heavy as when I took it from the treasurer's office to the steamer in Charleston; the first impression was that it was much lighter; but after trying the weight several times, I became more uncertain, but adopted the impression that appeared to be entertained by the major, that the money must have been left behind at the treasury. He particularly enjoined secrecy on me, as it was impossible to tell what had become of the money, unless, as he supposed, he had left it at the treasury; and as he would have to make it good out of his own pocket, he desired that it should not be known, especially as only a few weeks before he had met with another very large loss of money.

On our return from Indian River, when at Pilatka, he instructed me particularly to ascertain if any clue could be obtained to the loss having occurred there by noticing if the clerk in the office on our

first arrival who registered our names and superintended the disposition of our baggage was still at the hotel or if he had left. Should he have left, that was considered a good ground for suspecting that the loss had occurred there, and then measures could at once be taken for its recovery. The clerk, however, was still there, at Enterprise. When the major ascertained his loss he counted the money left, in my presence; there was the sum of fifteen thousand dollars left; he expressed great doubt whether he would be enabled to effect the payment of the troops, as the payment was expected to be an unusually large one. I told the major I had some moneys coming to me there, which I would give to him. He told me he would endeavor to raise what would be necessary from the sutler and others, and I understood that he had done so.

Int. 11. Did defendant bestow any care and attention on said money, if yea, what sort of care and attention? State the kind and degree of care and attention at the various times and places at which it was in his charge.

Ans. During the whole time we were on our way from Charleston to Indian River, Major Dashiell was very vigilant in regard to the money; on board the steamer he was careful to see that the valise in which the money was, was placed in his state room, the door of which he locked—and he then rarely left the saloon, but generally occupied a seat opposite to his state room. At the hotel at Pilatka, as I have stated, the major and myself saw the valise deposited in his room. The major stayed most of the time in his room, and when absent from it, it was only for a short time, when he always locked the door; his vigilance was excited on this occasion I think in consequence a heavy loss he had met with a few weeks before, by being upset in a boat—and for this reason he exercised more care and attention.

Int. 12. What were your means of information?

Ans. I did not occupy the same room with Major Dashiell, but at any time had access to his room when he was in it. I was constantly in attendance upon him; and whenever the money was to be moved I was always present with Major Dashiell, in my position as escort and guard. JOHN ROWLES.

(Deposition of J. Vogdes.)

And at another day, to wit, on the 22d day of November, A. D. 1859, personally came and appeared J. Vodges, a captain in the United States Army, who, being first cautioned and sworn in reply to interrogatories propounded by defendant, deposes and says as follows:—

Int. 1. Are you acquainted with the defendants in this cause? if yea, state at what time and place and in what capacity.

Ans. I am acquainted with one of the defendants, Major Dashiell. I knew him in South Carolina and Florida during the years 1856—1857; he was then a paymaster in the United States Army.

Int. 2. Were you commanding officer at Fort Moultrie, South Carolina, during the months of June, July, and August, 1857, and if yea, was that the station of the defendant at that time?

Ans. I was commanding officer at Fort Moultrie, South Carolina, at the time referred to. Major Dashiell was stationed there, but was frequently detached to pay troops at other stations. His absence from the station was regulated by the pay department, and was not under my control.

Int. 3. Did you as commander of that post order the Post Adjutant at Fort Moultrie, South Carolina, on or about the 18th June, 1857, to detail an escort to accompany defendant to guard the public funds in his possession, on a tour of payment to the United States troops on Indian River, in Florida? if yea, what soldier was detailed for that duty?

Ans. I directed, at the time Major Dashiell made his payment to the troops on Indian River (which I believe was in June, 1857, as near as I can now recollect), a private soldier to be be detailed as an escort. Private Rowles was detailed under that order. He belonged to Company D, 1st Artillery.

Int. 4th. Did said defendant at any time make known to you the loss of money sustained by him at Pilatka, Florida? If yea, at what time and to what amount?

Ans. He stated to me a short time after his return from his tour of paying troops at Indian River, that he had lost a bag of money containing $5,000, as near as I can recollect. It was the tour of duty on which Private Rowles accompanied him.

Int. 5th. Did defendant adopt any measures to discover the theft or recover the money stolen? If yea, what were the measures and when and where adopted?

Ans. The escort was examined by me in the presence of Lieut. Jenkins of company "D," to see whether any grounds of suspicion rested upon him. Subsequent to this I introduced Major Dashiell to the chief of police of Charleston, who caused a person upon whom some suspicion rested to be watched for some time; but nothing was elicited from it. I was afterwards informed by the treasurer in Charleston that a part of the money supposed to have been lost by Major Dashiell had been recovered at or near Pilatka, Florida, and the treasurer stated to me that from the kind of money recovered, and the attending circumstances, he thought he would be justified in placing the recovered money to Major Dashiell's credit. This, however, was a casual remark, and whether he did so or not I do not know.

J. VOGDES, Capt. 1st Art'y.

JNO. T. FRANCIS, U. S. Comm'r.

I, Loftin N. Ellett, clerk of the United States Circuit Court for the South Circuit and Virginia Districts, held at Richmond, do certify that John T. Francis was on the 23d day of June, 1852, by the Circuit Court aforesaid, duly appointed, and that he is at the

date hereof, a master in chancery for said court, and also a commissioner of said court, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes, and to exercise all the powers conferred on such commissioners by the acts of Congress, entitled "An act further supplementary to an act entitled 'an act to establish the judicial courts of the United States,' passed the 24th day of September, 1789." Approved Aug't 23, 1842.

In testimony whereof, I hereto subscribe my name
[SEAL.] and annex the seal of the said court, this 30th day of November, 1859.

LOFTIN N. ELLETT, Clerk.

The plaintiff objected to the following portions of the charge of the court, to wit:—

"In addition to this, the verdict and judgment rendered on yesterday in the suit 'United States *vs.* Jeremiah Y. Dashiell and Isaiah A. Paschal,' showing a finding of $10,318 22 in favor of the United States is in evidence before you; and this is so far conclusive that you cannot render a greater verdict against the security in this case, unless you believe the additional facts now in evidence will so authorize you. Acting upon these instructions, the jury will return their verdict.

"THO. H. DUVAL, U. S. Dist. Judge."

And the court overruled his objections, and the plaintiff then and there excepted.

After trial had and judgment rendered in said cause, the plaintiff moved for a new trial on the following grounds, to wit: See "page 17 and 18" *for motion for new trial.* And in support of the motion for a new trial, offered to read in evidence all the evidence hereinbefore stated as offered by plaintiff and defendant, with the additional evidence—most of Mr. Hopkins—on the trial, that $28,000 00 dollars in gold weighed one hundred and fifty-four pounds or thereabouts, and $13,000 00 weighed some seventy pounds. The court overruled the motion for a new trial, and the plaintiff then and there excepted.

The plaintiff then moved in arrest of judgment as follows, to wit: "For motion in arrest of judgment, see 'pages 18 and 19,' *Transcript.*"

The court overruled the motion, and the plaintiff then and there excepted, and prayed that this bill of exceptions be signed and sealed by the court, and made a part of the record, which is accordingly done.

THO. H. DUVAL, [SEAL.]
U. S. Dist. Judge.

Defendant's Bill of Exceptions.

THE UNITED STATES
vs.
JAS. BURBANK and HARRIET R. ALLSBURY, Adm's of HANSON ALLSBURY. } No. 523.

Be it remembered, that in the progress of this case the plaintiff to support the issue on her part, offered in evidence the following copies and abstracts from the accounts and proceedings of the treasury, viz: "B," "C," "D" (*Note*, these treasury transcripts are in their order attached to this transcript for reference, marked Exhibits "B," "C," and "D"), the plaintiff having already read in evidence the bond declared on, marked "A," in these words, to wit:—

(Exhibit "A.")

United States of America, Treasury Department, September 24th, 1858.

Pursuant to the act of Congress of 22d February, 1849, I hereby certify that the annexed is a true copy of the original on file in this department.

In witness whereof, I have hereunto set my hand and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

[SEAL.] HOWELL COBB,
Secretary of the Treasury.

Annexed to the foregoing certificate is the bond referred to, of which the following is copy.

Know all persons by these presents, that we, Jeremiah Y. Dashiell, I. A. Paschal, and Hanson Allsbury, are holden and firmly bound, and obliged unto the United States of America or their certain attorney, in the penal sum of twenty thousand dollars, current money of the said United States, well and truly to be paid into their treasury; for which payment, faithfully to be made and done, we, the said Jeremiah Y. Dashiell, I. A. Paschal, and Hanson Allsbury, do bind ourselves, and each of us, our heirs, executors and administrators, and each and every of them, for and in the whole, jointly, severally, and firmly by these presents. Signed with our hands and sealed with our seals, this sixth day of March, in the year one thousand eight hundred and fifty-five.

The condition, however, of this obligation is such, that whereas the above bounden Jeremiah Y. Dashiell is appointed a paymaster in the army of the United States aforesaid: Now if the said Jeremiah Y. Dashiell shall well and truly execute and faithfully discharge, according to law and to instructions received by him from proper authority, his duties as paymaster aforesaid; and he, his heirs, executors, or administrators, shall regularly account, when thereunto required, for all moneys received by him, from time to time, as pay-

master aforesaid, with such person or persons as shall be duly authorized and qualified on the part of the said United States for that purpose, and also refund at any time, when thereunto required, any public moneys remaining in his hands unaccounted for, then this obligation shall be null, void, and of no effect, otherwise to remain and be in full force and virtue.

Done at Charleston, in the State of South Carolina, the day and year before written.

J. Y. DASHIELL, [L. S.]
I. A. PASCHAL, [L. S.]
HANSON ALSBURY. [L. S.]

Signed, sealed, and delivered in the presence of
WM. L. POLK,
THOMAS EVANS,
Witnesses to J. Y. Dashiell, W. L. Polk.

I, Jeremiah Y. Dashiell, do solemnly swear that I will diligently and faithfully execute and perform the duties of paymaster in the army of the United States of North America, according to the best skill and abilities of which I am possessed; so help me God.

J. Y. DASHIELL.

Sworn and subscribed to at Charleston, in the State of South Carolina, this twentieth day of March, 1855, before,

THO. D. CONDY,
Notary Public and Magistrate ex-officio.

Endorsed on the back of said bond are the affidavits of I. A. Paschal and Hanson Allsbury, and clerk certif., in words, to wit:—

State of Texas, County of Bexar.

Before me, the undersigned justice of the peace in and for the county and State aforesaid, duly commissioned and authorized to administer oaths and affidavits, personally appeared Isaiah A. Paschal and Hanson Alsbury, to me well known, of said who being duly sworn, the said I. A. Paschal states upon his oath that he is worth more than ten thousand dollars over and above all his debts and liabilities, and the said Hanson Alsbury states that he is worth more than ten thousand dollars over all his debts and liabilities.

I. A. PASCHAL,
HANSON ALSBURY.

Sworn to and subscribed before me this March 6th, 1855.

F. J. PRYOR,
Justice of the Peace in and for the
County and State aforesaid.

The State of Texas, County of Bexar.

I, Sam. S. Smith, clerk of the County Court of said county, do hereby certify that F. J. Pryor, Esq'r, whose genuine signature ap-

pears to the affidavits on the reverse, was at the time of so doing a justice of the peace in and for said county and State, duly commissioned and qualified as such, and that said County Court is a court of record.

[Seal of the County Court of Bexar County, Texas.]

To certify which I have hereunto signed my name and affixed the seal of the County Court of said county, at office in San Antonio, this 6th day of March, 1855.

SAM. S. SMITH, Cl'k C. C. B. C.
By EDWARD MILES, Dep'ty.

Said bond is also endorsed on the back thereof in words, to wit:—

Treasury Department, Second Comptroller's Office,
March 23d, 1855.

I have examined the within bond, and find it to be in legal and proper form.

T. PENNINGTON,
Act'g Comptroller.

Respectfully submitted to the Secretary of War for his approval.

BENJAMIN F. LARNED,
P. M. G.

Exhibit "A."

Approved. JEFF'N DAVIS, Sec'y of War.
War Dept., March 24, 1855.

And to the said account from the treasury, the defendants made the following objection, viz:—

1. That all the items charged as moneys not received from the treasury, which are particularly set forth in the refused instructions hereafter set out, and to which reference is here made, are not things in the necessary and ordinary discharge of the duties of Dashiell as paymaster, and therefore are not properly chargeable as matters arising in Dashiell's bond nor provable by certificate, and because the bond set out and proven is dated 6th March, 1855, and the account and proceedings purport to be upon bonds dated the 19th and 20th March, 1855, and therefore the variance is fatal; which objections were overruled by the court, and the said items read.

And be it further remembered, that when the bond sued on was offered in evidence, the defendants objected to the same, because it was not certified according to law, and in fact not certified at all as a true copy, the certificate being merely attached to and preceding the bond, but not mentioning it by name; but the objection was overruled by the court and the bond read, to which the defendants by attorney excepted.

And after the general charge by the court, the defendants asked the court for the following several instructions, which were refused.

The defendants ask the court to instruct the jury, that the certi-

fied transcripts from the treasury department, only prove such accounts and proceedings of the defendant Dashiell as relate to his necessary duties as paymaster, and that under such a rule he is only chargeable with such items in the account as are supported by the abstract "D." And therefore the certified account does not prove the several sums charged as so much delivered to him by other paymasters, which items are as follows, viz:—

1855, Apr. 23,	rec'd of Maj. B. W. Brice, Paym. U. S. A.,		$25 00
May 1,	rec'd of Sergt. D. Johnson, overpayment of Maj. Ringgold, Dec. 1, 1854,		90
May 2,	rec'd of Maj D. Hunter, P. M.,		220 00
11,	" " "		405 00
11,	" " "		250 00
11,	" " "		865 00
14,	" " "		615 00
14,	" " "		347 00
14,	" St. Clair Denny, "		175 00
14,	" Lt. L. O. Morris, 1st Art'y, for disallowance in 2d Aud.'s office for commutation of quar's from Dec. 1, 1853, to Feb. 20, 1854,		10 65
June 14,	rec'd of Maj. Lloyd J. Beall, P. M.		10 00
15,	" " D. Hunter, P. M.		12 50
July 31,	drafts drawn on Col. Coffee, P. M. (Sept. '53), short extended in acc. ct.,		200 00
	Drafts drawn on Maj. D. Hunter, P. M., May 29, 1855, short extended,		22 00
1856, Mar. 11,	Maj. Hiram Leonard, P. M. U. S. A.,		60 00
1855, Sept. 21,	J. R. Haguer, P. M., transferred to him 7 Feb'y, '55,		100 00
Nov. 30,	transferred May 14, '55, H. Hill, P. M.,		155 74
1856, Jan'y 26,	B. W. Brice, P. M., transf. Aug. 8, '55,		28 00
	St. Clair Denny, P. M., trsf'd Jan'y 26, '55,		585 26
	L. J. Beall, P. M., trsf'd Ap'l 27, '55,		3 55
	J. R. Haguer, P. M., transf'd Sept. 19, '55,	$10 00	
	Feb. 7, "	3 00	
			13 00
	Appropriation for am't of suspensions now admitted on vou. 126, 127, and 32, chg'd in settlement of Maj. Dashiell, acc. June, '50, refunded by Lt. Thos. J. Wood, 2d draft to P. M. Johnston (who was charged to appropriation 7th Jan'ry, 1851), paid now to P. M. Brice by Dashiell Nov. 8, 1854,		10 41
1855, Apr. 24,	D. Hunter, Pay M., rec'd of him May 2d, 1855,	$100 00	

May 11, $100, $75, $90, $100, $20, $70, $30, $35, $30, $25, $45, $5, $250,	895 00		
14, $50, $300, $40, $200, $400, $150, $42,	1,182 00		
15, $55, $100, $100,	255 00		
29, $250, $40, $22, $80,	142 00		
June 15,	12 50		
		2586	50
Ap'l 24, B. W. Brice, P. M., rec'd of him 23 Ap'l, '55,		25	00
Ap'l 24, G. H. Ringgold, P. M., am't rec'd by Maj. Dashiell from Sgt. D. Johnson, May 1, 1855,			90
D. Hunter rec'd of him 11 May, '55,		150	00
St. Clair Denny, P. M., rec'd of him 14 May, '55,		175	00
L. J. Beall, P. M., rec'd of him 14th June, '55,		10	00
H. Leonard, P. M., rec'd of him 7 Jan'y, '56,		178	00
1857, Mar. 10, F. A. Cunningham, P. M., tr'sferred to him 12 March, '57,			40
1856, Jan'y 7, Maj. Hiram Leonard, P. M. U. S. A., on acc. pay of the army,			

2d. And said account does not prove the items purporting to be received from military storekeepers, post captains, and others, and which items are as follows, viz:—

1855, Aug. 7, Lt. H. W. Slocum, proceeds of effects of priv. F. Schal, dec'd, late Co. "K." 5 art'y,	$4	21
Sept. 10, Br. Maj. J. H. Haskin, part of effects of Pr't Tracy, dec'd, late of Co. "D," 5 art'y,	50	00
1855, Dec. 28, J. M. Galt, M. S. K., proceeds of sale of camp-bedsteads,	36	28
" " 31, Lt. H. W. Slocum, 1st art'y, appropriated to Mil. Asylum,		63
1856, Jan. 12, Capt. B. H. Hill, the proceeds of effects of Private W. F. Scott, late of Co. "M," 1st art'y,	2	80
Capt. B. H. Hill, proceeds of effects of Priv. Tho. P. Maurey, dec'd, late of Co. "M," first art'y,	7	90
" " 13, Lt. L. O. Morris, amount appropriated to Mil. Asylum,	5	00

29 March, '56,	Rec'd of J. A. Haskin, Capt. 1st art'y, proceeds of effects of Wm. McLaughlin, dec'd, late Co. "D," first art'y,	15 95
" " "	J. A. Haskin, Capt. 1st art'y, proceeds of effects of Ed. Walsh, dec'd, late Co. "D" 1st art'y,	33 60
" " "	J. A. Haskin, Capt. 1st art'y, proceeds of Hiram Monk, dec'd, late Co. "D," 1st art'y,	89 25
7 January, '56,	J. M. Galt, Mil. S. K., received of him in Dec., '55,	36 28
24 April, "	L. O. Morris, 1st art'y, " " in 14 May, '55,	10 65
"	Appropriated for am't rec'd of Lieut. H. W. Slocum, 7 Aug., '55, for proceeds of effects of F. Short, private Co. "H," 1st art'y,	4 21
23 Ap. '56,	Lieut. J. D. Bingham, am't appropriated hospital funds, Barancas barracks, Fa.,	10
	Lieut. J. D. Bingham, am't appropriated Post Council fund, Barrancas Barr's, Fa.	1 00
18 July, '56,	Am't rec'd of Lieut. L. O. Morris, proceeds of effects of J. Bohan, dec'd, late Co. "L," 1st art'y,	53 00
29 " "	Ord. Serg. Luke Walker, an overpaym't by Maj. Ringgold to him, 1st art'y, 30 Sept., '54,	10 00
24 Nov'r, '56,	Appropriation, for am't rec'd of Lt. J. D. Bingham for Mil. Asylum, 23 Ap'l, '56,	1 10
	Am't of effects of Jeff. J. Boham, late of Co. "L," 1st art'y, rec'd 18 July, 1856,	53 00
	For am't of effects of Private J. Nevin, late of Co. "G," 1st art'y, rec'd 28 July, '56,	265 00
8 Mar., '57,	Br. Lt.-Col. J. H. Wunder, proceeds of effects of J. Neupom, dec'd, late of Co. "G," 1st art'y,	75
8 Mar., 1857,	Rec. of Br'vt Lt.-Col. J. H. Wunder, proceeds of effects of Richard Ryan, late of Co. "G," 1st art'y,	6 15
2 July, '57,	Rec'd of Capt. J. Roberts, 4th art'y, proceeds of effects of Private Pat. Fanoll, dec'd, late Co. "D," 4 art'y,	2 81
	Rec'd of First Lt.-Col. J. H. Winder, proceeds of effects of Private Wm. Reiley, dec'd, late of Co. "G," 1st art'y,	5 00

3d. That, as the aggregate balance claimed on page 52, shows a charge for subsistence of officers $10,466 69—subsistence of officers $4,232 99, forage $3,632 60, pay in lieu of clothing officers and servants $1750 46. Now, these several amounts not being in the ordinary discharge of his duty as paymaster, the certificate does not prove said items.

4th. No interest is chargeable until after the 7th April, 1858.

5th. The plaintiff declares upon a bond dated 6th March, 1855, and proved of that date, and the account purports to be under "Bond of 19th March, 1855, and 20th March, 1855." Such evidence does not support the breach laid in the petition, nor the case stated by the plaintiff in the petition, the variance is fatal, and the jury must find for the defendants."

And to the refusal of said several instructions the defendants excepted.

All of which said several exceptions were taken at the trial, and before the jury retired; and now to save the same, the defendants here tender this bill of exceptions, and pray that the same may be sealed and made a part of the record, which is done.

THO. H. DUVAL, U. S. Judge. [SEAL.]

And afterwards, to wit, on the 30th day of August, A. D. 1860, came the plaintiffs in error, the United States, by their attorneys (special counsel), W. L. & C. L. Robards, and filed in the clerk's office of the aforesaid court their assignment of errors, which is in words, to wit:—

In the District Court of the United States, sitting at Austin, in and for the Western District of Texas.

THE UNITED STATES, Plaintiff,
vs.
JAMES BURBANK AND HARRIET R. ALSBURY, Ad'r and Ad'x of Hanson Alsbury, dec'd, Defendants. } No. 525.

And now comes the said plaintiff by the Dist. Attorney and makes the following assignments of error in said cause, to wit:—

1st. The court erred in overruling the exceptions of plaintiff to defendant's plea of set-off and robbery.

2d. The court erred in admitting illegal and incompetent testimony.

3d. The court erred in admitting testimony tending to prove the robbery and set-off plead by defendants.

4th. The court erred in its charge to the jury in relation to the former judgment in case of the United States *vs.* Dashiell and Paschal.

5th. The court erred in overruling plaintiff's motion for a new trial.

And pray that the said cause be reversed and remanded, and will ever pray, &c. JAMES F. WARREN, U. S. D. Att'y.
W. L. & C. L. ROBARDS,
Special Counsel.

And afterwards, to wit, on the first day of September, in the year of our Lord one thousand eight hundred and sixty, there was filed in the Clerk's Office of the District Court of the United States, at Austin, writ of error duly allowed by the judge of said court, and sealed with the seal of said court, which writ of error is in words, to wit:—

(Writ of Error.)

United States of America, *ss.*

The President of the United States to the Honorable the Judge of the District Court of the United States for the Western District of Texas, greeting:—

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said U. S. District Court for the Western District of Texas, at Austin, before you, between the United States, who are the plaintiffs, and James Burbank and Harriet R. Allsbury, the administrator and administratrix of Hanson Allsbury, deceased, who are the defendants, a manifest error hath happened to the great damage of the said United States as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court, the first day of September, in the year of our Lord one thousand eight hundred and sixty.

Allowed by THO. H. DUVAL, U. S. Judge.

In teste whereof I, Matthew Hopkins, Clerk of the District Court of the United States for the Western District of Texas, at Austin, have hereunto set my hand and the impress of the seal of court at Austin, this first day of September, A. D. 1860.

[SEAL.] MATTHEW HOPKINS, Clerk.

(Of Copy.)

And therewith was filed copy of the foregoing writ, endorsed:

"Lodged in pursuance of the statutes of the United States in such cases made and provided, and endorsed, filed Sept. 1st, 1860.

MATTHEW HOPKINS, Clerk.

(Citation.)

And therewith was filed citation in error, which citation in error is in words, to wit: (Endorsed), To Supreme Court of the United States. The United States, pl'ffs in error, *vs.* James Burbank and Harriet R. Allsbury, administrator and administratrix of Hanson Allsbury, dec'd. Citation in error. Issued Sept. 1st, 1860.

MATTHEW HOPKINS, Clerk.

And which is in words to wit:—

The United States of America, to James Burbank and Harriet Allsbury, administrator and administratrix of Hanson Allsbury, dec'd, greeting:—

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error, filed in the clerk's office of the District Court of the United States for the Western District of Texas, at Austin, wherein the United States are plaintiffs in error, and you, James Burbank and Harriet R. Allsbury, administrator and administratrix of Hanson Allsbury, dec'd, are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Thomas H. Duval, Judge of the District Court of the United States for the Western District of Texas, this first day of September, in the year of our Lord one thousand eight hundred and sixty. THO. H. DUVAL, U. S. Judge.

In teste whereof I have hereunto set my hand and the impress of the seal of court, at Austin, the day and date above written.

[SEAL.] MATTHEW HOPKINS,
Clerk U. S. Dist. Court, Austin, Western District of Texas.

The marshal's returns of service are endorsed thereon in words, to wit:—

On this 11th day of September, 1860, personally appears the undersigned before me, Sam'l Newton, and makes oath that he has delivered a true and certified copy of the accompanying citation in error to the within named Harriet R. Allsbury.

W. C. YOUNG,
Service $2 U. S. Marshal W. D. of Texas,
Mileage 83 4 98 By SAM'L NEWTON, Deputy.

Sworn and subscribed before me the day and year aforesaid. Witness my hand and official seal.

[SEAL.] C. G. JEFFERSON, Not. Pub. B. C.

And further endorsed, to wit:—

The defendant, James Burbank, is not to be found in my district. Whereupon I served Geo. W. Paschall, the att'y of record for said defendant in error, with a true copy of this citation in error, this Oct. 30th, 1860, by handing the same to him in person.

WM. C. YOUNG, U. S. M. W. D. T.
By THO. W. MASTERTON, Deputy.

Sworn to and subscribed before me the day and year above written.

MATTHEW HOPKINS, Clerk.

Exhibit C. Defendant's Bill of Exceptions.

United States of America.

Treasury Department, July 20th, 1858.

Pursuant to the act of Congress of 22d February, 1849, I hereby certify that the annexed are true copies of the original requisitions from the War Department. Nos. 5037, 5235, 5236, 5491, 5506, 5738, 5881, 5882, 6080, 6234, 6235, 6466, 6468, 6645, 6646, 6749, 6909, 6910, 7117, 7118, 7356, 7357, 7424, 7425, 7433, 7528, 7769, 7774, 7775, 7986, 7987, 8093, 8356, 8357, 8475, and 8885, now on file in this department.

In witness whereof I have hereunto set my hand, and caused the seal of the treasury department to be affixed, on the day and year first above written.

[SEAL.] HOWELL COBB,
Secretary of the Treasury.

War Department.

$15,000 $\frac{20}{5335}$ No. 5235.

To the Secretary of the Treasury—

Sir: Please to cause a warrant for fifteen thousand dollars and cents, to be issued in favor of Major J. Y. Dashiell, Paymaster Charleston, South Carolina, for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 16 day of June, 1855.

(Signed,) J. COOPER, Act'g Secretary of War.

Countersigned, J. M. BROADHEAD,
Second Comptroller.

Rec'd and registered 18, P. CLAYTON,
2d auditor.

Appropriation.

Pay of the army,	10,000
Subsistence of officers,	4,600
Forage,	300
Pay in lieu clo. off. st.,	100
	15,000

War Department.

$8,000 $\frac{20}{3535}$ No. 5236.

To the Secretary of the Treasury—

Sir: Please to cause a warrant for eight thousand dollars and cents, to be issued in favor of the Ass't Treasurer, New York, to be placed to the credit of Major J. Y. Dashiell, Paymaster at Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 16 day of June, 1855.

Signed, S. COOPER, Act'g Secretary of War.

Countersigned, J. M. BROADHEAD, Second comptroller.

Rec'd and registered 18, P. CLAYTON, 2d auditor.

Appropriation.

Pay of the army,	5,500
Subsistence of officers,	2,300
Forage,	100
Payment in lieu clo. off. st.,	100
	8,000

War Department.

$25,000 $\frac{24}{5074}$ No. 5037.

To the Secretary of the Treasury—

Sir: Please to cause a warrant for twenty-five thousand dollars and cents, to be issued in favor of Major J. Y. Dashiell, Paymaster, Charleston, S. C., for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 24 day of April, 1855.

(Signed,) JEFFERSON DAVIS, Secretary of War.

Countersigned, J. M. BROADHEAD, Second comptroller.

Rec'd and registered 24, P. CLAYTON. 2d auditor.

Appropriation.

Pay of the army,	19,000
Subsistence of officers,	5,200
Forage,	500
Payment in lieu clo. off. st.,	300
	25,000

War Department.

$15,000 $\frac{11}{6187}$ No. 5491.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for fifteen thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym'r, Charleston, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand this 15 day of August, 1855.

Signed, JEFFER. DAVIS, Secretary of War.

Countersigned, F. PENNINGTON, Act'g Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	12,000
Subsistence of officers,	2,500
Forage,	300
Pay't in lieu of clo. off. st.	200
	15,000

War Department.

$1000 $\frac{25}{6228}$ No. 5506.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for one thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym'r, at Charleston, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand, this 22 day of August, 1855.

Signed, JEFFERSON DAVIS, Secretary of War.

Countersigned, F. PENNINGTON, Act'g Second Comptroller.

Rec'd and registered, 24. P. CLAYTON, 2d Auditor.

Appropriation.

Raising 4 add'l Regiments,	1,000

War Department.

$9000 $\frac{7}{6844}$ No. 5738.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for nine thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym'r, Charles-

ton, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand this 5th day of November, 1855.

Signed, JEFF'N DAVIS, Secretary of War.

Rec'd and countersigned, 6. J. W. BROADHEAD, Second Comptroller.

Registered, P. Clayton, 2d Auditor.

Appropriation.

Pay of the army,	6,500
Subsistence of officers,	2,000
Forage,	300
Pay in lieu clo. off. st.	200
	9,000

War Department.

$5000 $\frac{24}{2600}$ No. 5881.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of the assistant treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, paym., Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 22 day of December, 1855.

Signed, JEFF'N DAVIS, Secretary of War.

Countersigned, J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	3000
Raising addi. regiments,	2000
	5000

War Department.

$10,000 $\frac{2}{2601}$ No. 5882.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for ten thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym., Charleston, S. C., for which he is accountable. To be charged to the undermentioned appropriations.

Given under my hand this 22 day of December, 1855.

Signed, JEFF'N DAVIS, Secretary of War.

Rec'd and Countersigned 24, J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	6000
Subsistence of officers,	3500
Forage,	300
Pay in lieu of clo. off. st.	200
	10,000

War Department.

$10,000 $\frac{15}{7623}$ No. 6080.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for ten thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym., Charleston, S. C., for which he is accountable. To be charged to the undermentioned appropriations.

Given under my hand this 12 day of February, 1856.

Signed, JEFF'N DAVIS, Secretary of War.

Rec'd and countersigned 13, J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	6000
Subsistence of officers,	2500
Forage,	300
Pay't in lieu clo. off. sts.	200
	10,000

War Department.

$5,000 $\frac{8}{7973}$ No. 6234.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of the assistant treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, paymaster at Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 5th day of April, 1856.

Signed, JEFFER. DAVIS, Secretary of War.

Rec'd and countersigned, 7. J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $5,000

War Department.

$17,000 $\frac{7}{7974}$ No. 6235.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for seventeen thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym. at Charleston, S. C., for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 5th day of April, 1856.

Signed, JEFF'SON DAVIS, Secretary of War.

Rec'd and countersigned, 7. J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	$12,500
Serv'ts of offi's,	4,000
Forage,	300
Pay'ts in lieu clo. offi's serv'ts,	200
	$17,000

War Department.

$5,000 $\frac{11}{8397}$ No. 6466.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of Major J. Y. Dashiell, paym. at Fort Moultrie, Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 9th day of June, 1856.

Signed, JEFF'SON DAVIS, Secretary of War.

Rec'd and countersigned, 10. J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $5,000

War Department.

$1,000 $\frac{11}{8398}$ No. 6468.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for one thousand dollars and cents, to be issued in favor of the assistant treasurer, at New York, to be placed to the credit of Major J. Y. Dashiell, paym. at Fort

Moultrie, Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 9th day of June, 1856.

Signed, JEFF'SON DAVIS, Secretary of War.

Rec'd and countersigned, 10. J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $1,000

War Department.

$5,000 $\frac{5}{8\,7\,8\,0}$ No. 6645.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of the assistant treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, at Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 4th day of August, 1856.

Signed, JEFF'N DAVIS, Secretary of War.

Rec'd and countersigned 5, J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $5,000

War Department.

$10,000 $\frac{5}{8\,7\,8\,1}$ No. 6646.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for* five thousand dollars and cents, to be issued in favor of Major J. Y. Dashiell, Paym'r at Charleston, So. Ca., for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand this 4th day of August, 1856.

Signed, JEFF'N DAVIS, Secretary of War.

Rec'd and countersigned, 5. J. M. BROADHEAD, Second Comptroller.

Registered, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $10,000

* So written.

War Department.

$1,000 $\frac{10}{9863}$ No. 7118.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for one thousand dollars and cents, to be issued in favor of the Assistant Treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, paymaster at Fort Moultrie, Charleston, S. C., for which said Dashiell is to be accountable, to be charged to the under-mentioned appropriations.

Given under my hand this 8 day of December, 1856.

Signed, JEFF'N DAVIS, Secretary of War.
Countersigned, J. M. BROADHEAD,
Second Comptroller.
Registered, 9, P. C. CLAYTON, 2d Auditor.

Pay of the army, $1,000

War Department.

$23,000 $\frac{17}{419}$ No. 7356.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for twenty-three thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym'r at Charleston, S. C., for which he is accountable, to be charged to the under-mentioned appropriations.

Given under my hand this 14th day of February, 1857.

Signed, JEFF'N DAVIS, Secretary of War.
Countersigned, JNO. M. BROADHEAD,
Second Comptroller.
Registered, 16, P. CLAYTON, 2d Auditor.

Pay of the army,	$15,000
Subsistence of officers,	7,200
Forage,	600
Pay't in lieu of clo. offi's serv'ts,	400
	$23,000

War Department.

$5,000 $\frac{17}{420}$ No. 7357.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of the Ass't Treasurer, New York, to be placed to the credit of Maj. J. Y. Dashiell, paym'r at Charleston, S. C., who is accountable, to be charged to the under-mentioned appropriations.

Given under my hand this 14th day of Feb'y, 1857.

Signed, JEFF. DAVIS, Secretary of War.
Countersigned, J. M. BROADHEAD,
Second Comptroller.
Registered, 16, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army, $5,000

War Department.

$5,000 $\frac{9}{5\,5\,0}$ No. 7424.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for five thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym'r U. S. Army at Charleston, So. Ca., for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 6 day of March, 1857.

Signed, S. COOPER, Act'g Secretary of War.

Countersigned, J. M. BROADHEAD, Second Comptroller.

Registered 7, P. CLAYTON, 2d Auditor.

Appropriation.

Subsistence of officers, 5,000

War Department.

$11,000 $\frac{9}{5\,5\,1}$ No. 7425.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for eleven thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paymaster U. S. Army at Fort Moultrie, Charleston, So. Ca., for which he is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 6 day of March, 1857.

Signed, S. COOPER, Act'g Secretary of War.

Countersigned, JNO. M. BROADHEAD, Second Comptroller.

Registered 7, P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	10,000
Subsistence of officers,	1,000
	$11,000

War Department.

$250 38 $\frac{2\,1}{6\,6\,4}$ No. 7433.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for two hundred and fifty dollars and thirty-eight cents, to be issued in favor of Maj. J. Y. Dashiell, paymaster, to be carried by counter-requisition, to his credit on

acc't of *pay of the army*, for eng. 2d Comp., No. 4836, to be charged to the undermentioned appropriations.

Given under my hand, this 9 day of March, 1857.

Signed, JNO. B. FLOYD, Secretary of War.

Countersigned, J. M. BROADHEAD, Second Comptroller.

Registered 10, P. CLAYTON, 2d Auditor.

Appropriation.

3 months' extra pay,	87
Pay of volunteers,	103 12
Preventing and supp'g Ind. hostilities,	60 26
	$250 38

War Department.

*$2600 $\frac{9}{813}$ No. 7528.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for twenty-six thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paymaster at Charleston, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand, this 7 day of April, 1857.

Signed, JNO. B. FLOYD, Secretary of War.

Countersigned, JNO. M. BROADHEAD, Second Comptroller.

Registered, 8. P. CLAYTON, 2d Auditor.

Appropriation.

Pay of the army,	18,000
Subsistence of officers,	7,000
Forage,	600
Pay't in lieu of clo. off. st.	400
	26,000

War Department.

$20,000 $\frac{11}{1397}$ No. 7769.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for twenty thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paymaster

* As written.

at Charleston, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand, this 10 day of June, 1857.

Signed, W. R. DINKAND,
Act'g Secretary of War.

Countersigned, 10th. T. J. CATHCART,
Act'g Second Comptroller.

Registered, T. J. D. FULLER, 2d Auditor.

Appropriation.

Pay of the army,	14,000
Subsistence of officers,	5,000
Forage,	600
Pay. in lieu clo. off. st.	400
	20,000

War Department.

$15,000 $\frac{12}{1409}$ No. 7774.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for fifteen thousand dollars and cents, to be issued in favor of the Assistant Treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, paymaster at this place, who is accountable; to be charged to the undermentioned appropriations.

Given under my hand this 11 day of June, 1857.

Signed W. R. DRINKARD,
Act'g Secretary of War.

Countersigned, J. M. BROADHEAD.
Second Comptroller.

Registered, 12. T. J. D. FULLER,
2d Auditor.

Appropriation.

Pay of the army.	12,000
Subsistence of officers,	2,000
Forage,	800
Pay't in lieu clo. off. st.	200
	15,000

War Department.

$15,000 $\frac{12}{1410}$ No. 7775.

To the Secretary of the Treasurer.

Sir: Please to cause a warrant for fifteen thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, pay'm.

Charleston, So. Ca., for which he is accountable; to be charged to the undermentioned appropriations.

Given under my hand this 11 day of June, 1857.

Signed, W. R. DRINKARD.
Act'g Secretary of War.

Countersigned, J. M. BROADHEAD.
Second Comptroller.

Registered 12. T. J. D. FULLER,
2d Auditor.

Appropriation.

Pay of the army,	12,000
Subsistence of officers,	2,000
Forage,	800
Pay. in lieu clo. off. st.,	200
	15,000

War Department.

$1,000 $\frac{6}{1940}$ No. 7986.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for one thousand dollars and cents, to be issued in favor of the ass't treasurer, at New York, to be placed to the credit of Maj. J. Y. Dashiell, at Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 4th day of August, 1857.

Signed, J. B. FLOYD, Secretary of War.

Countersigned, J. M. BROADHEAD,
Second Comptroller.

Registered, 5. T. J. D. FULLER, 2d Auditor.

Appropriation.

Pay of the army, 1,000

War Department.

$12,000 $\frac{6}{1941}$ No. 7987.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for twelve thousand dollars and cents, to be issued in favor of Maj. J. Y. Dashiell, paym. at Charleston, S. C., who is accountable, to be charged to the undermentioned appropriations.

Given under my hand, this 4th day of August, 1857.

JNO. B. FLOYD, Secretary of War.

Countersigned, J. M. BROADHEAD,
Second Comptroller.

Registered, 5. T. J. D. FULLER, 2d Auditor.

Appropriation.

Pay of the army,	8,000
Subsistence of officers,	3,600
Forage,	300
Pay in lieu of clo. offi's serv'ts,	100
	12,000

War Department.

$425 05 $\frac{17}{2284}$ No. 8093.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for four hundred and twenty-five dollars and five cents, to be issued in favor of Maj. J. Y. Dashiell, paym., to be carried by counter req'n to his credit on ac.

Pay of the army,	90 77
4 add'l Reg.	119 36
Expenses recruiting,	214 92
	425 05

to be charged to the undermentioned appropriations.

Given under my hand, this 7th day of September, 1857.

Signed, J. B. FLOYD, Secretary of War.

Countersigned, J. M. BROADHEAD, Second Comptroller.

Registered, 8. T. J. D. FULLER, 2d Auditor.

Appropriation.

Clothing of the army,	202 59
Travelling allowance to vols.	43 73
3 months extra pay,	72 00
Pay of vols.	31 73
Med. and hosp'l dep't.	75 00
	425 05

War Department.

$12,000. $\frac{30}{2829}$ No. 8356.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for twelve thousand dollars and cents to be issued in favor of Maj. J. Y. Dashiell, Paym'r, Charleston, So. Ca., for which he is accountable. To be charged to the undermentioned appropriations.

Given under my hand this 25 day of November, 1857.

JOHN B. FLOYD, Secretary of War.

Countersigned, J. MADISON CUTTS, Second Comptroller.

Registered 28. T. J. D. FULLER, Auditor.

Appropriation.

Pay of the army,	8,000
Subsistence of officers.	3,500
Forage,	300
Pay in lieu of clo. off. ser'ts,	200
	12,000 —

War Department.

$1,000. $\frac{28}{2888}$ No. 8357.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for one thousand dollars and cents, to be isued in favor of the Assistant Treasurer at New York, to be placed to the credit of Maj. J. Y. Dashiell, Paymaster, at Charleston, S. C., who is accountable. To be charged the undermentioned appropriations.

Given under my hand this 25 day of November, 1857.

Signed, JOHN B. FLOYD.
Secretary of War.

Countersigned, J. MADISON CUTTS,
Second Comptroller.

Registered 27. T. J. D. FULLER, 2d Auditor.

Appropriation.

Pay of the army, 1,000

War Department.

$385 92. $\frac{12}{3113}$ No. 8475.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for three hundred and eighty-five dollars and ninety-two cents, to be issued in favor of Major J. Y. Dashiell, to be carried by counter req'n to his credit in acc't of pay of the army per cer. 2 Comp. No. 6139,
to be charged to the undermentioned appropriations.

Given under my hand this 6 day of January, 1858.

Signed, JOHN B. FLOYD,
Secretary of War.

Countersigned, J. MADISON CUTTS,
Second Comptroller.

Registered 8. T. J. D. FULLER, 2d Auditor.

Appropriation.

Expenses of recruiting,	214 92
Med. & Hospt. Dept.,	171 00
	385 92

War Department.

$65 97 No. 8885.

To the Secretary of the Treasury.

Sir: Please to cause a warrant for sixty-five dollars and ninety-seven cents to be issued in favor of Major J. Y. Dashiell, Paymaster, to be carried by counter req'n to his credit on account of *pay of the army* per cer. 2d compt'r No. 6733, to be charged to the undermentioned appropriations.

Given under my hand this 23d day of April, 1858.

(Signed,) JOHN B. FLOYD, Secretary of War.

Countersigned, J. MADISON CATTS, Second Comptroller.

Rec'd and registered 27, T. J. D. FULLER, 2d auditor.

Appropriation.

Med. and hosp'l department,	48 50
Pay of clothing to discharged soldiers 3d March, 1857,	17 47
	65 97

District Court of the United States,
Western District of Texas at Austin.

I, Matthew Hopkins, Clerk of the District Court of the United States for the Western District of Texas, at Austin, hereby certify that the foregoing thirty-seven pages, numbered from one to thirty-seven inclusive, are a full, true, and correct copy of (Treasury Transcript) exhibit C of defendant's bill of exceptions, and thus introduced as a portion of the record in this cause for the reason of the difficulty of otherwise embodying it in the defendant's bill of exceptions without confusion. In testimony thereof, I have hereunto set my hand and impressed the seal of the court at Austin, this 29th day of September, A. D. 1860.

[L. S.] MATTHEW HOPKINS, Clerk.

Exhibit D. Defendant's Bill of Exceptions.

Treasury Department, Register's Office, July 19, 1858.

Pursuant to the act of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, F. Bigger, Register of the Treasury Department, do hereby certify that the annexed are true copies of original warrants, and the drafts issued thereon in favor of Major J. Y. Dashiell, Paymaster, now on file in this office.

F. BIGGER, Register.

Be it remembered, that F. Bigger, Esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, Howell Cobb, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this nineteenth day of July, in the year of our Lord 1858.

[SEAL.] HOWELL COBB, Secretary of the Treasury.

War Warrant, No. 5004. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj'r J. Y. Dashiell, Pay M'r Charleston, S. C., or order, out of the appropriation named in the margin, twenty-five thousand dollars. And for which sum he is to be charged and held accountable pursuant to requisition No. 5037 of the Secretary of War, dated 24 April, 1855, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your *warrant.*

Given under my hand and the seal of the Treasury this 24th day of April, in the year one thousand eight hundred and fifty five, and of independence the 79th. JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army	$19,000
Sub's of off's,	5,200
Forage,	500
Pay in lieu of clo.,	300
	$25,000

Received for the above warrant the following draft, No. 8481, on A. T., Charleston, $25,000:—

No. 8481. War Warrant. No. 5004.

Treasury of the United States, Washington, 24 April, 1855.

At sight pay to Maj'r J. Y. Dashiell, Paymaster, or order, twenty-five thousand dollars $\frac{00}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 8481, Registered April 24, 1855. $25,000.

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston, S. C.

(Endorsed) J. W. DASHIELL, P. M. U. S. Army.

Carried to credit Ap'l 27th, 1855.

War Warrant, No. 5538. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, Pay M'r Charleston, S. C., or order, out of the appropriation named in the margin, fifteen thousand dollars; and for which sum he is to be charged and held accountable pursuant to requisition No. 5235 of the Secretary of War, dated 16th June, 1855, countersigned by the Second Comptroller of the Treasury, and registered by the Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 20th day of June, in the year one thousand eight hundred and fifty-five, and of independence the 79th. JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$10,000
Sub's of off's	4,600
Forage,	300
Pay in lieu of cloth.	100
	$15,000

Received for the above warrant the following draft, No. 8877, on A. T., Charleston, $15,000:—

No. 8877. War Warrant. No. 5538.

$15,000. Treasury of the United States, Washington, 20 June, 1855.

At sight pay to Maj'r J. Y. Dashiell, Pay M'r, or order, fifteen thousand dollars $\frac{}{100}$.
SAM. CASEY, Treasurer of the United States.

No. 8877, Registered June 20th, 1855. $15,000.
F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston, S. C.
(Endorsed) J. Y. DASHIELL, P. M. U. S. Army.
June 26th, 1855.

War Warrant, No. 5539. Treasury Department.

To the Treasurer of the United States, greeting:—

The Ass't Treas. at New York. Pay to to be placed to the credit of Maj. J. Y. Dashiell, Pay M'r at Charleston, S. C., out of the appropriation named in the margin, eight thousand dollars, and for which sum the said Maj'r Dashiell is to be charged and held accountable pursuant to requisition No. 5236 of the Secretary of War, dated

16 June, 1855, countersigned by the Second Comptroller of the Treasury and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 20th day of June, in the year one thousand eight hundred and fifty-five, and of independence the 79th. JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$5,500
Sub's of off's,	2,300
Forage,	100
Pay in lieu of clo.,	100
	$8,000

Received for the above warrant the following draft, No. 8878, on A. T., New York, $8,000:—

No. 8878. War Warrant. No. 5539.

$8,000. Treasury of the United States, Washington, 20th June, 1855.

At sight pay to Ass't Tr. New York, for ac't Maj. J. Y. Dashiell, Pay M'r, or order, eight thousand dollars $\frac{00}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 8878, registered June 20th, 1855.
F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., New York.
(Endorsed) JOHN J. CISCA, Ass't Treas. U. S.

To be placed to the credit of Maj. J. Y. Dashiell, P. M.

War Warrant No. 6167. Treasury Department.

To the Treasurer of the United States, greeting:

Pay to Maj'r J. Y. Dashiell, Pay M'r, Charleston, S. C., or order, out of the appropriation named in the margin, fifteen thousand dollars, and for which sum he is to be charged and held accountable, pursuant to requisition No. 5491, of the secretary of war, dated 15th August, 1855, countersigned by the second comptroller of the treasury, and registered by the 2d auditor. For so doing this shall be your warrant. Given under my hand and the seal of the treasury, this 17th day of August, in the year one thousand eight hundred and fifty-five, and of independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$12,000
Subs. of off's,	2,500
Forage,	300
Pay in lieu of clo.,	200
	$15,000

Received for the above warrant the following draft, No. 9345, on A. T., Charleston, $15,000.

No. 9345. War Warrant No. 6167. Treasury of the United States.

$15,000. Washington, Aug't 18, 1855.

At sight, pay to Maj'r J. Y. Dashiell, Pay M'r, or order, fifteen thousand dollars $\frac{1}{000}$.

SAM. CASEY, Treasurer of the United States.

No. 9345. Registered Aug. 15, 1855.

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston.

(Endorsed): Aug. 22, 1855. J. Y. Dashiell, P. M. U. S. army.

War Warrant No. 6228. Treasury Department.

To the Treasurer of the United States, greeting:

Pay to Major J. Y. Dashiell, Pay M'r, Charleston, S. C., or order, out of the appropriation named in the margin, one thousand dollars, and for which sum he is to be charged and held accountable. Pursuant to requisition No. 5506, of the secretary of war, dated 22d August, 1855, countersigned by the second comptroller of the treasury, and registered by the 2d auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 25th day of August, in the year one thousand eight hundred and fifty-five, and of independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

4 Add. Reg'ts, $1000.

Received for the above warrant the following draft 9374, on A. T., Charleston, $1000.

No. 9374. War Warrant No. 6228. Treasury of the United States.

Washington, August 27th, 1855. At sight, pay to Major J. Y. Dashiell, Pay Master, or order, one thousand dollars $\frac{1}{000}$.

SAM. CASEY, Treasurer of the United States.

No. 9374. Registered Aug't 27, 1855. $1000.
F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston.

(Endorsed): J. Y. Dashiell, P. M. U. S. army.

War Warrant, No. 7200. Treasury Department.

To the Treasurer of the United States, greeting:—

The ass't treasurer, New York, pay to to be placed to the credit of Maj. J. Y. Dashiell, paym'r at Charleston, S. C., or order, out of the appropriation named in the margin—five thousand dollars. And for which sum the said Maj. Dashiell is to be charged and held accountable, pursuant to requisition No. 588, of the secretary of war, dated 22d Dec., 1855, countersigned by the second comptroller of the treasury, and registered by the 2d auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 24th day of Decemb., in the year one thousand eight hundred and fifty-five, and of Independence the eightieth.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$3000
4 add. reg'ts,	2000
	$5000

Received for the above warrant the following draft:—

No. 10,046, on A. T., New York, $5000.

No. 10,046. War Warrant. No. 7200.

Treasury of the United States, Washington, December, 26th, 1855.

At sight pay to the ass't treas'r, New York, to be placed to the credit of Maj. J. Y. Dashiell, paym., or order, five thousand dollars
100. SAM. CASEY, Treasurer of the United States.

No. 10,046, registered Dec'r 26th, 1855. $5000.
F. BIGGER, Register of the Treasury.

Ass't Treasurer U. States, New York.

(Endorsed) JOHN J. CISCA, Asst. Treas. U. S.

Placed to the credit Major J. Y. Dashiell, paym.

War Warrant, No. 7201. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, paym'r, at Charleston, S. C., or order, out of the appropriation named in the margin ten thousand dollars. And for which sum he is to be charged, and held accountable, pursuant to requisition No. 5882, of the secretary of war, dated 22d Dec., 1855, countersigned by the second comptroller of the treasury, and registered by the 2d auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 24th day of Dec., in the year one thousand eight hundred and fifty-five, and of Independence the eightieth.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register,

Appropriation.

Pay of army,	$6000
Subs. of off's,	3500
Forage,	300
Pay't in lieu clo.	200
	$10,000

Received for the above warrant the following draft:—

No. 10,047, on A. T., Charleston. $10,000.

No. 10,047. War Warrant. No. 7201.

Treasury of the United States, Washington, December, 26th, 1855.

At sight pay to Maj. J. Y. Dashiell, paym., or order, ten thousand dollars $_{100}$.

SAM. CASEY, Treasurer of the United States.

No. 10,047, registered Dec. 26th, 1855. $10,000

F. BIGGER, Register of the Treasurer.

Asst. Treasurer U. States, Charleston, S. C.
(Endorsed), Jan'y 1, 1855. J. Y. DASHIELL,
P. M. U. S. Army.

War Warrant, No 6844. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, paym'r, Charleston, S. C., or order, out of the appropriation named in the margin, nine thousand dolls. And for which sum he is to be charged and held accountable, pur-

suant to requisition No. 5738 of the Secretary of War, dated 5 Novem., 1855, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 7th day of Novemb'r, in the year one thousand eight hundred and fifty-five, and of Independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$6,500
Subs. of offi'rs,	2,000
Forage,	300
Paym't in lieu of clo.	200
	$9,000

Received for the above warrant the following draft, No. 9804 on A. T., Charleston, $9,000 :—

No. 9804. War Warrant, No. 6844.

Treasury of the United States, Washington, Nov'r 8th, 1855.

At sight pay to Maj'r J. Y. Dashiell, paymaster, or order, nine thousand dollars $\frac{00}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 9804. Registered Nov'r 8th, 1855. $

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston.

(Endorsed) J. Y. DASHIELL, P. M. U. S. Army.

War Warrant, No. 7623. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj'r J. Y. Dashiell, paym'r at Charleston, S. C., or order, out of the appropriation named in the margin, ten thousand dollars. And for which sum he is to be charged and held accountable, pursuant to requisition No. 6080 of the Secretary of War, dated 12th Feb'y, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 15th day of Feb'y, in the year one thousand eight hundred and fifty-six, and of Independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$6,000
Subs. of offi'rs,	3,500
Forage,	300
Paym't in lieu of clo.,	200
	$10,000

Received for the above warrant the following draft, No. 243, on A. T., Charleston, $10,000:—

No. 243. War Warrant, No. 7623.

Treasury of the United States, Washington, Feb'y 16th, 1856.

At sight pay to Maj. J. Y. Dashiell, paymaster, or order, ten thousand dollars $\frac{100}{000}$.

SAM. CASEY, Treasurer of the United States.

No. 243. Registered Feb'y 16th, 1856. $10,000

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston.

(Endorsed) Place to my credit.

J. Y. DASHIELL, P. M. U. S. Army.

Feb. 20th, 1856, Charleston, S. C.

War Warrant, No. 7973. Treasury Department.

To the Treasurer of the United States, greeting:—

The ass't treas., New York, pay't to be placed to the credit of Major J. Y. Dashiell, Pay Mas'r, at Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars. And for which sum the said Maj. Dashiell is to be charged and held accountable pursuant to requisition No. 6234 of the Secretary of War, dated 5th April, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and seal of the Treasury this 8th day of April, in the year one thousand eight hundred and fifty-six, and of independence the eightieth. JAMES GUTHRIE,

Secretary of the Treasuary.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $5,000

Received for the above warrant the following draft, No. 513, on A. T., New York, $5,000.

No. 513. War Warrant. No. 7973.

$5,000. Treasury of the United States, Washington, April 20th, 1856.

At sight pay to Ass't Treasurer of New York, for credit of Maj. J. Y. Dashiell, Pay M'r, or order, five thousand dollars $\frac{000}{}$.

SAM. CASEY, Treasurer of the United States.

No. 513, registered April 8th, 1856. $5,000.

Ass't Treasurer, U. S., New York.

F. BIGGER, Register of the Treasury.

(Endorsed) JOHN J. CISCA, Ass't Treas. U. S.

Placed to credit of Maj. J. Y. Dashiell, Pay M.

War Warrant, No. 7974. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, Pay M'r at Charleston, S. C., or order, out of the appropriation named in the margin, seventeen thousand dollars. And for which sum he is to be charged and held accountable pursuant to requisition No. 6235 of the Secretary of War, dated 5th April, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 8th day of April, in the year one thousand eight hundred and fifty-six, and of independence the eightieth. JAMES GUTHRIE,

Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$12,500
Sub's of offi's,	4,000
Forage,	300
Pay in lieu of clo.	200
	$17,000

Received for the above warrant the following draft, No. 514, on A. T., Charleston, $17,000.

No. 514. War Warrant. No. 7974.

Treasury of the United States, Washington, April 8th, 1856.

At sight pay to Maj. J. Y. Dashiell, Pay M'r, or order, seventeen thousand dollars $\frac{000}{}$.

SAM. CASEY, Treasurer of the United States.

No. 514, registered April 8th, 1856. $17,000.

F. BIGGER, Register of the Treasury.

Ass't Treas. U. S., Charleston, S. C.

(Endorsed) J. Y. DASHIELL, P. M. U. S. Army.

Place amount to my credit, April 11th, 1856.

War Warrant, No. 8397. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiel, paym'r at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars. And for which sum he is to be charged and held accountable. Pursuant to requisition No. 6496, of the Secretary of War, dated 9 June, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand, and the seal of the Treasury, this 11th day of June, in the year one thousand eight hundred and fifty-six, and of Independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $5,000

Received for the above warrant, the following draft, No. 834, on A. T., Charleston, $5,000:—

No. 834. War Warrant. No. 8397.

$5,000. Treasury of the United States, Washington, June 12th, 1856.

At sight pay to Maj. J. Y. Dashiell, paymaster, or order, five thousand dollars $\frac{00}{00}$.

SAM. CASEY, Treasurer of the United States.

No. 834. Registered June 12th, 1856. $5,000.

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., New York.

(Endorsed) Place to my credit, J. Y. DASHIELL, P. M. U. S. Army.

Placed to his credit,

B. L. PRESSLEY,
P'r C. H. SMIEUTON, Cl'k.

War Warrant, No. 8398. Treasury Department.

To the Treasurer of the United States, greeting:—

The Ass't Treasurer, New York: Pay to to be placed to the credit of Maj'r J. Y. Dashiell, Pay M'r at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, one thousand dollars, and for which sum the said Maj'r Dashiell is to be charged and held accountable. Pursuant to requisition No. 6468 of the secretary of war, dated 9th June, 1856, countersigned

by the second comptroller of the treasury, and registered by the auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 11th day of June, in the year one thousand eight hundred and fifty six, and of independence the eightieth.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army. $1000.

Received for the above warrant the following draft, No. 835, on A. T., New York, $1000.

No. 835. War Warrant No. 8398.

$1000. Treasury of the United States.

Washington, June 12, 1856. At sight, pay to Ass't Treasurer, N. Y., to be placed to the credit of Maj'r J. Y. Dashiell, Pay M'r, or order, one thousand dollars $\frac{100}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 835. Registered June 12, 1856.

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., New York.

(Endorsed): John J. Cisca, Ass't Treasurer U. S. Placed to the credit of Maj. J. Y. Dashiell, P. M.

War Warrant, No. 8780. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to the Assistant Treasurer at New York, to be placed to the credit of Maj'r J. Y. Dashiell, Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars. And for which sum he, said Maj'r J. Y. Dashiell, is to be charged and held accountable, pursuant to requisition No. 6645, of the Secretary of War, dated 4th August, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 5th day of August, in the year one thousand eight hundred and fifty-six, and of independence the eighty-first. JAMES GUTHRIE,

Secretary of the Treasury.

Countersigned, E. W. WITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $5,000

Received for the above warrant, the following draft:—

No. 1119, on A. T., New York, $5,000

No. 1119. War Warrant. No. 8780.

$5,000. Treasury of the United States,
Washington, Aug. 6th, 1856.

At sight pay to Ass. Treasurer, N. York, to be credited to Maj. J. Y. Dashiell, paym'r, or order, five thousand dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 1119, registered Aug. 6, 1856. $5,000
Ass't Treasurer U. S., New York, F. BIGGER,
Register of the Treasury.

(Endorsed), JOHN J. CISCA,
Ass't Treasurer U. S.

Placed to the credit of Maj. J. Y. Dashiell, paym'r.

War Warrant. Treasury Department.

To the Treasurer of the United States, greeting:

Pay to Maj'r J. Y. Dashiell, Charleston, S. C., or order, out of the appropriation named in the margin, ten thousand dollars, and for which sum he is to be charged and held accountable. Pursuant to requisition No. 6646, of the Secretary of War, dated 4th August, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 5th day of August, in the year one thousand eight hundred and fifty-six, and of independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. W. WITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $10,000

Received for the above warrant, the following draft:—

No. 1120, on A. T., Charleston, $10,000

No. 1120. War Warrant. No. 8781.

$10,000. Treasury of the United States,
Washington, Aug. 6th, 1856.

At sight pay to Maj'r J. Y. Dashiell, paymaster, or order, ten thousand dollars $\frac{00}{100}$.

SAM. CASEY,
Treasurer of the United States.

No. 1120, registered Aug. 6th, 1856. $10,000
Ass't Treasurer U. S., Charleston, F. BIGGER,
Register of the Treasury.

(Endorsed), J. Y. DASHIELL,
P. M. U. S. Army.

War Warrant. Treasury Department.

War Dep. No. 9016.

To the Treasurer of the United States, greeting:—

Pay Maj'r J. Y. Dashiell, paym'r, to be charged to the appropriation named in the margin, one thousand and forty-four doll's and six cents, being the amount transferred to other appropriations by refunding warrant No. 405. Pursuant to requisition No. 6749 of the Secretary of War, dated 5th Sept'r, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 13th day of Sept. in the year one thousand eight hundred and fifty-six, and of independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. W. WITTLESEY, Comptroller.
Registered, C. T. JONES, Act'g Register.

Appropriation.	
Clothing army,	$833 06
3 mo's extra pay,	114 00
Relief of certain Tenn. volun's,	83 05
Pay of vol's,	13 95
	$1,044 06

The treasurer will receive credit for the above warrant, upon his receipting counter-warrant No. 405.

E. WHITTLESEY, Comptroller.

War Warrant, No. 1347. Treasury Department.

To the Treasurer of the United States, greeting:—

The Assistant Treasurer, New York, pay, to be credited to Major J. Y. Dashiell, paymaster at Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars, and for which sum the said Dashiell is to be charged and held accountable pursuant to requisition No. 6909 of the Secretary of War, dated 6 Oct'r, 1856. Countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 9th day of October, in the year one thousand eight hundred and fifty-six, and of Independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $5,000.

Received for the above warrant the following draft:

No. 1588 on A. F., New York.—$5000.

No. 1588. War Warrant. No. 9357.

$5000. Treasury of the United States.

Washington, Octb'r 10, 1856. At sight, pay to Ass't Treasurer, New York, pr. credit of Maj. J. Y. Dashiell, paymaster, or order, five thousand dollars $_{100}$. SAM CASEY,
Treasurer of the United States.

No. 1588, Registered October 10th, 1856. $5000
F. BIGGER, Register of the Treasury.

Assist. Treasurer, New York.

(Endorsed): JOHN J. CISCA, Assist. Treas. U. S.

Placed to the credit of Maj. J. Y. Dashiell, paymaster.

War Warrant, No. 9348. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Major J. Y. Dashiell, paymaster at Charleston, S. C., or order, out of the appropriation named in the margin, fifteen thousand dollars, and for which sum he is to be charged and held accountable pursuant to requisition No. 6910 of the Secretary of War, dated 6th October, 1856. Countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 9th day of October, in the year one thousand eight hundred and fifty-six, and of Independence the eighty-first. JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$10,000
Subsistence of officers,	4,300
Forage,	400
Pay in lieu clo.,	300
	$15,000

Received for the above warrant the following draft:

No. 1589 on A. T., Charleston—$15,000.

No. 1589. War Warrant. No. 9348.
$15,000. Treasury of the United States.

Washington, Oct. 10th, 1856. At sight, pay to Maj'r J. Y. Dashiell, paymaster, or order, fifteen thousand dollars $\frac{100}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 1589—Registered Oct. 10, 1856. $15,000.

F. BIGGER, Register of the Treasury.

Assist. Treas's U. S., Charleston, S. C.

(Endorsed): T. Y. DASHIEL, P. M. U. S. Army.
Oct. 4th, 1856.

War Warrant, No. 9864. Treasury Department.

To the Treasury of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, paym'r at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, fifteen thousand dollars, and for said sum he is to be charged and held accountable. Pursuant to requisition No. 7117 of the Secretary of War, dated 8th December, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 10th day of Dec'r, in the year one thousand eight hundred and fifty-six, and of Independence the eighty-first.

JAMES GUTHRIE, Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$10,000
Sub's off's,	4,400
Forage,	400
Pay in lieu of clo.,	200
	$15,000

Received for the above warrant, the following draft, No. 1965, on A. T., Charleston, $15,000:—

No. 1965. War Warrant. No. 9864.
$15,000. Treasury of the United States.
Washington, Dec'r 11th, 1856.

At sight pay to Maj. J. Y. Dashiell, paymaster, or order, fifteen thousand dollars $\frac{100}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 1965. Registered Dec. 11th, 1856.

F. BIGGER, Register of the Treasury.

Ass't Treasurer, U. S., Charleston.

(Endorsed) Dec'r 15th, 1856.

J. Y. DASHIELL, Paym'r, U. S. Army.

War Warrant, No. 9865. Treasury Department.

To the Treasurer of the United States, greeting:—

The Ass't Treasurer, New York, pay to to be credited to Maj. J. Y. Dashiell, paym'r at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, one thousand dollars. And for which sum the said Dashiell is to be charged and held accountable. Pursuant to requisition No. 7118, of the Secretary of War, dated 8th Decem'r, 1856, countersigned by the Second Comptroller of the Treasury, and registered by the Auditor. For so doing, this shall be your warrant.

Given under my hand and the seal of the Treasury, this 10th day of Dec'r, in the year one thousand eight hundred and fifty-six, and of Independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $1,000

Received for the above warrant, the following draft, No. 1966, on A. F., New York, $1,000:—

No. 1966. War Warrant. No. 9865.

$1,000. Treasury of the United States.

Washington, Dec. 11th, 1856.

At sight pay to Ass't Treasurer, New York, to be credited to Maj. J. Y. Dashiell, paymaster, or order, one thousand dollars $\frac{00}{100}$.

SAM. CASEY, Treasurer of the United States.

No. 1966, registered Dec'r 11th, 1859, $1,000.

F. BIGGER, Register of the Treasury.

Ass't Treasurer, U. S., New York.

(Endorsed) JOHN J. CISCA, Ass't Treasurer, U. S.

Placed to the credit of Maj. J. Y. Dashiell, paym'r.

War Warrant, No. 419. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, paym. at Charleston, S. C., or order, out of the appropriation named in the margin, twenty-three thousand dollars, and for which sum he is to be charged, and held accountable. Pursuant to requisition, No. 7356, of the Secretary of War, dated 14 Feb'y, 185 , countersigned by the second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury, this 17th day of Feb'y, in the year one thousand eight hundred and fifty-seven, and of Independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$15,000
Sub's of offi's,	7,200
Forage,	600
Pay in lieu of clo.	200
	23,000

Received for the above warrant the following draft:—

No. 2419, on A. T. Charleston. $23,000

No. 2419. War Warrant. No. 419.

$23,000. Treasury of the United States,
Washington, Feb'y 18th, 1857.

At sight, pay to Maj. J. Y. Dashiell, paymaster, or order, twenty-three thousand dollars $\frac{}{100}$. SAM. CASEY,
Treasurer of the United States.

No. 2419. Registered, Feb'y 18th, 1857. $23,000

Ass't Treasurer U. S., Charleston. F. BIGGER,
Register of the Treasury.

(Endorsed), Feb'y 21, 1857.
J. Y. DASHIELL, Paym. U. S. Army.

War Warrant. Treasury Department.

To the Treasurer of the United States, greeting:—

The Ass't Treas'r, New York, pay to to be credited to Maj. J. Y. Dashiell, paym. at Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars. And for which sum the said Dashiell is to be charged and held accountable. Pursuant to requisition, No. 7357, of the Secretary of War, dated 14th Feb'y, 1857, countersigned by the second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury, this 17th day of Feb'y, in the year one thousand eight hundred and fifty-seven, and of Independence the eighty-first.

JAMES GUTHRIE,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of the army, $5,000

Received for the above warrant the following draft:—

No. 2420, on A. G., New York. $5,000

No. 2420. War Warrant. No. 420.

$5,000 Treasury of the United States,
Washington, Feb'y 18th, 1857.

At sight, pay to Ass't Treasurer, New York, to be credited to Maj. J. Y. Dashiell, paym., or order, five thousand dollars $\frac{1}{000}$.
SAM. CASEY, Treasurer of the United States.

No. 2420. Registered, Feb. 18th, 1857. $5,000

Ass't Treasurer U. S., New York. F. BIGGER,
Register of the Treasury.

(Endorsed), JOHN J. CISCA,
Ass't Treas'r, New York.
Placed to credit of Maj. J. Y. Dashiell, paym.

War Warrant No. 550. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, Pay M. at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, five thousand dollars, and for which sum he is to be charged and held accountable, pursuant to requisition No. 7424, of the Secretary of War, dated 6th March, 1857, countersigned by the second comptroller of the treasury, and registered by the 2d auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 9th day of March, in the year one thousand eight hundred and fifty-seven, and of independence the eighty-first.

HOWELL COBB,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Subs. of officers, $5,000

Received for the above warrant the following draft:—

No. 2530 on A. T., New York, $5000

No. 2530, War Warrant, No. 550.
$5,000. Treasury of the United States,
Washington, March, 10th, 1857.

At sight pay to Maj. J. Y. Dashiell, Paymaster, or order, five thousand dollars $\frac{000}{100}$. SAM. CASEY,
Treasurer of the United States.

No. 2530, Registered March 10th, 1857. $5,000
F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., New York.

(Endorsed.) Ass't Treasurer U. S., New York, will place the amount of the within treasury draft to my credit on his books for public disbursement. J. Y. DASHIELL,
P. M. U. S. Army.

Fort Moultrie, S. C., March 27, 1857.

War Warrant No. 551. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj. J. Y. Dashiell, Pay M. at Fort Moultrie, Charleston, S. C., or order, out of the appropriation named in the margin, eleven thousand dollars, and for which sum he is to be charged and held accountable, pursuant to requisition No. 7425 of the Secretary of War, dated 6th March, 1857, countersigned by the second comptroller of the treasury, and registered by the second auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the treasury, this 9th day of March, in the year one thousand eight hundred and fifty-seven, and of independence the eighty-first.

HOWELL COBB,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$10,000
Subs. of off's,	1,000
	11,000

Received for the above warrant the following draft:—

No. 2531 on A. T., New York, $11,000

No. 2531, War Warrant, No. 551.
Treasury of the United States,
Washington, March 10th, 1857.

At sight pay to Maj. J. Y. Dashiell, Paymaster, or order, eleven thousand dollars $\frac{000}{100}$. SAM. CASEY,
Treasurer of the United States.

No. 2531, Registered March 10, 1857, $11,000

F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., New York.

(Endorsed,) J. Y. Dashiell, P. M. U. S. Army, pay R. H. Lowrie, Esq., cashier, or order.

WM. C. BREESE, Cash'r.
R. H. LOWRY, Cash.

War Department.

War Warrant, No. 664. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Major J. Y. Dashiell, Paymaster, to be charged to the appropriation named in the margin, two hundred and fifty dollars and thirty-eight cents, being the amount transferred to other appropriations, by refunding warrant No. 884 pursuant to requisition No. 7433 of the Secretary of War, dated 9th March, 1859, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 21st day of March, in the year one thousand eight hundred and fifty-seven, and of independence the 81st. HOWELL COBB,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

3 mos. extra pay,	$ 87 00
Pay of vol's,	103 12
P and I, Ind. Hosc.,	60 26
	$250 38

The Treasurer will receive credit for the above warrant, upon his receipting counter warrant No. 884.

E. WHITTLESEY, Comptroller.

War Warrant, No. 813. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Major J. Y. Dashiell, Paymaster, Charleston, S. C., or order out of the appropriation named in the margin, twenty-six thousand dollars, and for which sum he is to be charged and held accountable pursuant to requisition No. 7528 of the Secretary of War, dated 7th April, 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 9th day of April, in the year one thousand eight hundred and fifty-seven, and of independence the 81st. HOWELL COBB,
Secretary of the Treasury.

Countersigned, E. WHITTLESEY, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$18,000
Sub's of off's,	7,000
Forage,	600
Pay in lieu clo.,	400
	$26,000

Received for the above warrant the following draft, No. 2753, on A. T., Charleston, $26,000.

No. 2753. War Warrant. No. 813.

$26,000. Treasury of the United States,
Washington, April 10th, 1857.

At sight pay to Maj. J. Y. Dashiell, Paymaster, or order, twenty-six thousand dollars $\frac{00}{100}$.
SAM. CASEY, Treasurer of the United States.

No. 2753, Registered April 10th, 1857.
F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., Charleston, S. C.
(Endorsed,) J. Y. DASHIELL, P. M. U. S. Army.
April 13th, 1855.

War Warrant, No. 1397. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj'r J. Y. Dashiell, Paym'r at Charleston, S. C., or order, out of the appropriation named in the margin, twenty thousand doll's; and for which sum he is to be charged and held accountable, pursuant to requisition No. 7769 of the Secretary of War, dated 10 June, 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this day of in the year one thousand eight hundred and fifty and of independence the eighty. HOWELL COBB,
Secretary of the Treasury.

Countersigned, W. MEDILL,
Comptroller.

Registered, F. BIGGER, Auditor.

Appropriation.

Pay of army,	$14,000
Subs. of off's,	5,000
Forage,	600
Pay in lieu clo.,	400
	$20,000

Received for the above warrant the following draft:—

No. 3196 on A. T., Charleston. $20,000.

No. 8196. War Warrant. No. 1397.

$20,000. Treasury of the United States,
Washington, June 12th, 1857.

At sight pay to Major J. Y. Dashiell, Paymaster, or order, twenty thousand dollars$_{100}$. SAM. CASEY,
Treasurer of the United States.

No. 3196, Registered June 12th, 1857, $20,000.
F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., Charleston.

(Endorsed) J. Y. DASHIELL,
June 15th, 1857. P. M. U. S. Army.

War Warrant, No. 1449. Treasury Department.

To the Treasurer of the United States, greeting:—

The Ass't Treasurer at New York pay to to be credited to Maj'r J. Y. Dashiell, Paym'r at that place, or order, out of the appropriation named in the margin, fifteen thousand doll's; and for which sum the said Dashiell is to be charged and held accountable, pursuant to requisition No. 7774 of the Secretary of War, dated 11 June, 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 12th day of June, in the year one thousand eight hundred and fifty-7, and of independence the eighty-1st. HOWELL COBB,
Secretary of the Treasury.

Countersigned, W. MEDILL,
Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$12,000
Sub's of off's,	2,000
Forage,	800
Pay in lieu clo.	200
	$15,000

Received for the above warrant the following draft:—
No. 3207 on A. T., New York. $15,000

No. 3207. War Warrant. No. 1409.
$15,000 Treasury of the United States,
Washington, June 13, 1857.

At sight pay to Ass't Treasurer U. S., N. York, to be credited to Maj'r J. Y. Dashiell, Paymaster, or to order, fifteen thousand dollars$_{100}$.
SAM. CASEY,
Treasurer of the United States.

No. 3207, Registered June 12, 1857, $15,000.
F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., New York.

(Endorsed) JOHN J. CISCA, Ass't Treas. U. S.
Placed to the credit of Maj'r J. Y. Dashiell, Paymast.

War Warrant No. 1410. Treasury Department.

To the Treasurer of the United States, greeting:

Pay to Majr. J. Y. Dashiell, Paymr. Charleston, S. C., or order out of the appropriation named in the margin, fifteen thousand dollars, and for which sum he is to be charged and held accountable pursuant to requisition No. 7775 of the Secretary of War, dated 11th June, 1857, countersigned by the Second Comptroller of the Treasury and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and seal of the Treasury, this 12th day of June, in the year one thousand eight hundred and fifty-seven, and of independence the eighty-first.

HOWELL COBB,
Secretary of the Treasury.

Countersigned, W. MEDILL, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of the army,	$12,000
Subs.of off's,	2,000
Forage,	800
Pay in lieu of clo.,	200
	$15,000

Received for the above warrant the following draft:—
No. 3208 on A. T., Charleston, $15,000

No. 3208. War Warrant. No. 1410.

$15,000 Treasury of the United States.
Washington June 13th, 1857.

At sight pay to Maj'r J. Y. Dashiell, Paymaster, or order, fifteen thousand dollars $\frac{00}{100}$.
SAM. CASEY,
Treasurer of the United States.

No. 3508, Registered June 13th, 1857, $15,000.
F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., Charleston.
(Endorsed), J. Y. DASHIELL.
P. M. U. S. Army.

June 16th, 1857.

War Warrant, No. 1940. Treasury Department.

To the Treasurer of the United States, greeting:

The ass't treasurer, New York, pay to to be credited to Maj. J. Y. Dashiell, Pay M. at Charleston, S. C., or order, out of the appropriation named in the margin, one thousand dollars, and for which sum, the said Dashiell is to be charged and held accountable, pursuant to requisition No. 7986 of the Secretary of War, dated 4th Aug. 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of Treasury, this 6th day of August, in the year one thousand eight hundred and fifty-seven, and of independence the eighty-second.

HOWELL COBB,
Secretary of the Treasury.

Countersigned, W. MEDILL, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.
Pay of army, $1,000

Received for the above warrant the following draft:—
No. 3636 on A. T., New York, $1,000

No. 3636. War Warrant. No. 1940.

$1,000 Treasury of the United States.
Washington, Aug. 8th, 1857.

At sight pay to ass't Treasurer U. S., N. York, to be charged to Maj'r J. Y. Dashiell, Paymaster, or order, one thousand dollars $\frac{00}{100}$.
SAM. CASEY,
Treasurer of the United States.

No. 3636, Registered Aug. 8th, 1857, $1,000.

F. BIGGER,
Register of the Treasury.

Ass't Treasurer U. S., New York.
(Endorsed), JOHN J. CISCA,
Ass't Treas'r U. S.

Placed to the credit of J. Y. Dashiell, paym'r.

War Warrant, No. 1841. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj'r J. Y. Dashiell, Pay M'r at Charleston, S. C., or order, out of the appropriation named in the margin, twelve thousand dollars, and for which sum he is to be charged and held accountable pursuant to requisition 7987, of the Secretary of War, dated 4th Aug't, 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 6th day of Aug't, in the year one thousand eight hundred and fifty-7, and of independence the eighty-2d.

HOWELL COBB, Secretary of the Treasury.

Countersigned, W. MEDILL, Comptroller.
Registered, F. BIGGER, Register.

Appropriation.

Pay of army,	$8,000
Sub's of off's,	3,600
Forage,	300
Pay in lieu of clo.,	100
	$12,000

Received for the above warrant the following draft, No. 3637, on A. T., N. York:—

No. 3637. War Warrant. No. 1941.

$12,000. Treasury of the United States,
Washington, August 8th, 1857.

At sight pay to Maj'r J. Y. Dashiell, Paymaster, or order, twelve thousand dollars $\frac{}{000}$.

SAM. CASEY, Treasurer of the United States.

No. 3637, registered Aug't 8th, 1857. $12,000.

F. BIGGER, Register of the Treasury.

Ass't Treasurer U. S., New York.
(Endorsed) J. Y. DASHIELL, P. M. U. S. Army.

War Warrant. War Dep., No. 2284. Treasury Department.

To the Treasurer of the United States, greeting:—

Pay to Maj'r J. Y. Dashiell, Pay M'r, to be charged to the appropriation named in the margin, four hundred and twenty-five doll's and five cents, being the amount transferred to other appropriations by refunding warrant No. 1311, pursuant to requisition No. 8090 of the Secretary of War, dated 7th Sept., 1857, countersigned by the Second Comptroller of the Treasury, and registered by the 2d Auditor. For so doing this shall be your warrant.

Given under my hand and the seal of the Treasury this 17th day of Sept., in the year one thousand eight hundred and fifty-7, and of independence the eighty-2d.

HOWELL COBB, Secretary of the Treasury.

Countersigned, W. MEDILL, Comptroller.

Registered, F. BIGGER, Register.

Appropriation.

Clothing army,	$202 59
Trav'l allow. to vol's,	43 73
3 mo's extra pay,	72 00
Pay of vol's,	31 73
Med. & H. dep't,	75 00
	$425 05

The Treasurer will receive credit for the above warrant upon his receipting counter-warrant No. 1311.

W. MEDILL, Comptroller.

United States District Court,
Western District of Texas, at Austin.

I, Matthew Hopkins, Clerk of the District Court of the United States for the Western District of Texas, at Austin, hereby certify that the foregoing thirty-three pages, numbered arbitrarily from one to thirty-three by defendants, is a full, true, and correct copy of (Treasury Transcript) Exhibit "D" of defendants' bill of exceptions, and thus introduced as a portion of the record in this cause for the reason of the difficulty of otherwise embodying it in the defendants' bill of exceptions without confusion.

In testimony whereof I have hereunto set my hand and impressed the seal of the court at Austin, this 29th day of September, A. D. 1860.

[L. S.] MATTHEW HOPKINS, Clerk.

(Exhibit "B." Def'ts Bill of exceptions.)

The United States in account current with J. Y. Dashiell, Paymaster in U. S. Army, under bond, dated March, 1855.

1855.	DR.	
May 31,	For amount expended as per abstract and vouchers herewith in paying the troops, since the 19th day of March, 1855, the of last account rendered,	23,722 06
	Treasury certificate No. 19,621,	39 00
	Treasury certificate No. 19,406,	83 05
	Turned over to Major J. R. Hagner, Paymaster U. S. A.,	100 00
	Turned over to Major H. Hill,	155 74
	Turned over to Major St. Clair Denny,	585 26
	To balance due the United States, to be accounted for in next account,	3,228 44
		27,913 55

1855.	CR.	
April 27,	Received from the Treasurer,	25,000 00
23,	" of Major B. W. Brice, Paymaster U. S. A.,	25 00
May 1,	" " Sergeant D. Johnson, over payment of Major Ringgold, Dec. 1, 1854,	90
2,	" " Major D. Hunter, Paymaster,	220 00
11,	" " " "	405 00
11,	" " " "	250 00
11,	" " " "	865 00
14,	" " " "	615 00
14,	" " " "	347 00
14,	" " Maj'r St. Clair Denny,	175 00
14,	" " Lieut. L. O. Morris, 1st Art'y, for disallowances in the 2d Auditor's office for commutation of quarter from Dec'r 1, 1853, to Feb'y 20, 1854,	10 65
		27,913 55

Stated at Fort Moultrie, in the State of South Carolina, this eleventh day of June, 1855.

J. Y. DASHIELL, P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Moultrie, S. C., April 23, 1855.

Received of Major B. W. Brice, Paymaster U. S. Army, twenty-five dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicate hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Moultrie, S. C., May 2, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hundred dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hundred dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Maj. D. Hunter, Paymaster U. S. Army, seventy-five dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, ninety dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hun-

dred dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, twenty dollars and cents, being on account of "Pay, &c., of the army, &c.," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, twenty dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, seventy dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dept. U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, thirty dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, ninety-five dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S Army.

Pay Dep't U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, thirty dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself responsible at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received from Major D. Hunter, Paymaster U. S. Army, twenty-five dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, forty-five dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, five dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 11, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, two hundred and fifty dollars and cents, being on account of "*which sum* I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, fifty dol-

lars, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and hold myself accountable at the treasury. J. Y. DASHIELL,
$50 $\frac{00}{100}$ P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, three hundred dollars and cents, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.
(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't, U. S. Army,
Fort Dallas, E. Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, forty dollars, being on account of "Pay, &c. of the army," which sum I have passed to the credit of the United States, and hold myself accountable at the treasury. J. Y. DASHIELL,
$40 $\frac{00}{100}$ P. M. U. S. Army.

Pay dep't, Fort Dallas, E. Florida, May 14 ,1855.

Received of Major D. Hunter, Paymaster U. S. Army, two hundred dollars, on account of "Pay, &c. of the army," for which I am accountable at the treasury. J. Y. DASHIELL,
$200 $\frac{00}{100}$. P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Dallas, E. Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, four hundred dollars and cents, being an account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.
(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Dallas, E. Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hundred and fifty dollars, on account of "Pay, &c., of the army," which I have passed to the credit of the United States, and hold myself accountable at the Treasury. J. Y. DASHIELL,
$150 $\frac{00}{100}$. P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Dallas, East Florida, May 14, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, forty-two dollars, being on account of "Pay, &c., of the army," which sum I

have passed to the credit of the United States, and for which I am accountable at the Treasury. J. Y. DASHIELL,
$42\frac{00}{100}$. P. M. U. S. Army.

Pay Dep't, Fort Dallas, East Florida, May 15, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, fifty-five dollars, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I am accountable at the Treasury. J. Y. DASHIELL,
$55\frac{00}{100}$. P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Dallas, East Florida, May 15, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hundred dollars, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I am accountable at the Treasury. J. Y. DASHIELL,
$100\frac{00}{100}$. P. M. U. S. Army.

Pay Department, Fort Dallas, East Florida, May 15, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, one hundred dollars, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I am accountable at the Treasury. J. Y. DASHIELL,
$100\frac{00}{100}$. P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Moultrie, S. C., May 29, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, forty dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.
(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Moultrie, S. C., May 29, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, twenty-two dollars and cents, being on account of "Pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the Treasury.
(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

Pay Dep't U. S. Army,
Fort Moultrie, S. C., May 29, 1855.

Received of Major D. Hunter, Paymaster U. S. Army, eighty dollars and cents, being on account of "Pay, &c., of the army,"

Received at Fort Moultrie, S. C., this thirteenth day of April, 1857, of the Treasurer U. S., Draft No. 2733, war warrant No. 813, the sum of twenty-six thousand dollars, on account of pay, &c., of the army, as follows:—

Pay,	$18,000 00
Subsistence,	7,000 00
Forage,	600 00
Clothing,	400 00
	$26,000 00 for which sum I am accountable.

J. Y. DASHIELL, Paym. U. S. Army.

Fort Moultrie, S. C., Dec'r 29th, 1859.

Sir: In compliance with your request, I acknowledge the receipt of Treasury Draft, for twelve thousand dollars, specified in your communication of 28th Nov'r last.

Very respectfully your ob't ser't,
J. Y. DASHIELL, Paym. U. S. Army.

To J. D. Fuller, 2d Auditor,
Treasury Dep't, Washington, D. C.

Pay Dept. U. S. Army,
Fort Moultrie, S. C., June 14, 1855.

Received of Major Lloyd J. Beall, Paymaster U. S. Army, ten dollars and cents, being on account, of "pay, &c., of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.) J. Y. DASHIELL,
P. M. U. S. Army.

The United States in accounts current with Major J. Y. Dashiell, Paymaster in the Army of the United States under bond dated 20th March, 1855.

1855,	Dr.	
July 31,	For amount expended as per abstract and vouchers herewith, in paying the trooops since the 31st day of May, 1855, the date of last account rendered,	16,171 00
April 27,	Turned over to Major L. J. Beall, P. M. U. S. A.,	3 55
	To balance due the United States, to be accounted for in next account,	10,407 50
		26,582 05

1855.	Cr.	
May 31,	By balance to be accounted for as stated in last account,	3,228 44
June 14,	Received of Major Lloyd Beall, P. M. U. S. A.,	10 00
15,	Received of Major D. Hunter, P. M. U. S. A.,	12 50
21,	Treasurer U. S. at New York,	8,000 00
23,	Treasurer U. S. at Charleston, S. C.,	15,000 00
July 31,	Ord. Sergt. Henry Douglass, on acc't 2 auditor,	06
	Drafts drawn on Col. Coffee, P. M. (Sept.), '53, short extended in account cur't,	200 00
	L. B. Wood, 1 Lt. and Capt. 8 Inf'y disallowance pr't pay abst. Oct. and Nov. '53,	46 00
	Abstract Oct. Nov. '53, Thos. J. Burton dis. private overpaid,	1 49
	Abstract "A," April, '54, voucher No. 51, W. Prescott, Sergt., was overpaid,	3 35
	Abstract "A," April, '54, voucher 86, Co. "H" M. R. overadded in addition of Roll,	7 50
	Abstract July and Aug. '54, 58 Co. "E" 1 Inf'y overadded by including pay of R. Dryas,	7 22
	Abstract July and Aug. '54, 63 Co. "K," Roll overadded,	33 50
	(Overadded) 1 Feb'y to 19 March, '55, vo. 26, Co. "H" 1 art'y,	9 99
	Drafts drawn on Major D. Hunter, P. M., May 29, '55, short extended,	22 00
		26,582 05

Stated at Fort Moultrie, in the State of South Carolina, this sixth day of August, 1855.

J. Y. DASHIELL,
P. M. U. S. Army.

The United States in account current with J. Y. Dashiell, Paymaster in the army of the United States.

1855.	Dr.	
31 Octo.	For amount expended as per abstract and vouchers herewith, in paying the troops since the 31st day of July, 1855, the date of last account rendered,	22,768 39
19 Sept.	Turned over to Major J. R. Hagner, P. M. U. S. A.,	3 00
	To balance due the United States to be accounted for in next account,	3,700 17
		26,471 50

1855.		Cr.		
July 31.	By	balance to be accounted for, as stated in last act.,	10,407	50
Aug. 12.	"	received from Treasurer U. S.,	15,000	00
" 30.	"	" " " "	1,000	00
	"	difference between the pay of Jallery and E. Jallius settlement 4 Sept., '52, voucher No. 167,	5	39
	"	John Beamish overpaid vo. No. 85, sec. 6 Mar. '55,	3	00
	"	G. R. Dashiell, cl'k P. D., overpaid vo. No. 16 abstract, 1 Sept. '54, 31 Jan'y, '55,		32
	"	T. Williams overpaid vo. No. 68 abst., 1 Sept. '54, 31 Jan'y, '55,		30
	"	J. Molonay, dero. overpaid laundress vo. No. 68 abst. 1 Sept. '54, 31 Jan'y, 55,		84
" 7.	"	D. H. W. Slocum proceeds of effects of private Fr. Schort, decd., late C. "H" 5 arty.,	4	21
Sept. 10.	"	Brt. Major J. A. Haskin, part of effects of Patrick Tracy, dec'd, late of Co. "D" 5 arty.,	50	00
			26,471	50

Stated at Fort Moultrie, in the State of South Carolina, this second day of November, 1855. J. Y. DASHIELL,
P. M. U. S. Army.

The United States in account current with J. Y. Dashiell, Paymaster in the army of the United States, under bond 20 March, 1855.

1855.	Dr.		
Nov. 30.	For amount expended as per abstract and vouchers herewith, in paying the troops since the 31st day of October, 1855, the date of last account rendered,	6,738	49
" "	For amount of suspensions under my bond which expired March 5th, '53, improperly credited in my account current dated 6 August, 1855,	309	05
	do. do. November, 1855,	9	85
	To balance due the United States, to be accounted for in next account,	5,642	78
		12,700	17

1855. Cr.

Octo. 31.	By balance to be accounted for as stated in last account,	3,700 17
Nov. 9.	Received from Treasurer U. S.,	9,000 00
		12,700 17

Stated at Fort Moultrie, in the State of South Carolina, this fifth day of December, 1855.

J. Y. DASHIELL,
P. M. U. S. Army Paymaster.

Pay Dep't U. S. Army,
Key West Barracks, E. F., Jan'y 7, 1856.

Received of Major Hiram Leonard, Paymaster U. S. Army, seven thousand one hundred seventy-eight dollars and cents, being on account of pay, &c., of the army, viz.: it being for the payment of the garrison at Fort Dallas for the months of September and October, 1855, which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicate hereof.)

J. Y. DASHIELL,
P. M. U. S. Army.

The United States in account current with Major J. Y. Dashiell, paymaster in the army of the United States under bond.

1856. Dr.

31 Jan'y.	For amount expended as per abstract and vouchers herewith, in paying the troops since the 30th day of Nov., 1855, the date of the last account rendered,	$17,067 26
	To balance due the United States, to be accounted for in next account,	10,846 60
		$27,913 86

1856. Cr.

30 Nov.	By balance to be accounted for as stated in last account,	$5,642 78
1 Jan'ry.	Received from Treasurer U. S.,	15,000 00
28 Dec. '55.	" " John M. Galt, M. S. K., proceeds of sale of camp-bedsteads,	36 28
31 "	" Received Lt. H. W. Slocum, 1 ar'ty, amount appropriated to Mil. Asylum,	63
12 Jan'y, '56.	Received Capt. R. K. Hilta, proceeds of effects of Private Wm. F. Scott, dec'd, late of Co. "M," 1 art'y,	2 80
" "	" Received Capt. B. H. Kiel, proceeds of effects of Private Thos. P. Maurey, dec'd, late of Co. "M," 1 art'y,	7 90

13 Jan'y, '56	Received Lt. L. O. Morris, amount appropriated to Mil. Asylum,	5 00
7 " "	" Major Hiram Leonard, paymaster U. S. A., on account of pay of the army,	7,178 00
	" Private Tildon, Co. "A," 1 art'y, overpaid No. 52 abst., 31 May, '55,	80
	" Private Molder, Co. "A," 1 art'y, overpaid to No. 52, abst. 31 May, '55,	38
	" Corporal Crawford, Co. "L," 1 art'y, overpaid to No. 55 abst. 31 May, '55,	28
	" Private Adam Kemple, Co. "M," overpaid to No. 56 abst. 31 May, '55,	3 00
	" Private M. Barrett, Co. "A," overpaid to No. 53 abst. 31 Oct. '55,	1 00
	" Private J. Harmagh, Co. "A," overpaid one day's pay, No. 53,	33
	" Private W. Marion, Co. "A," overpaid one day's pay, No. 52,	1 00
	" Private G. Lindsay, armorer and acting sergeant, overpaid $6 per m's vo. No. 60, abst. 31 Oct. '55,	12 00
	" Private, Co. "D," 1st art'y, pay of J. Smith, not receipted for included and overadded 20 cents, vo. No. 60, abst. 31 Oct. '55,	19 70
	" Private W. McCormick, of Co. "H," 1st art'y, overpaid 6 days' pay vou. 41, 31 July, '55,	1 98
		$27,913 86

Stated at Fort Moultrie in the State of South Carolina this eighth day of February, 1856.

J. Y. DASHIELL,
P. M. U. S. Army (paymaster).

Pay Dep't U. S. Army,
Fort Dallas, E. F., March 13, 1856.

Received of Maj. Hiram Leonard, Paymaster U. S. Army, sixty dollars and cents, being on account of "pay, &c. of the army," which sum I have passed to the credit of the United States, and for which I hold myself accountable at the treasury.

(Signed duplicates hereof.)

J. Y. DASHIELL,
P. M. U. S. Army.

The United States in account current with Major J. Y. Dashiell, Paymaster in the Army of the United States, under bond of 19th March, 1855.

1856.	Dr.	
31 March,	For amount expended as per abstract and vouchers herewith in paying the troops since the 31st day of January, 1856, the date of the last account rendered,	$13,505 46
13 "	Turned over to Major J. R. Hagner, Paymaster U. S. A.,	10 00
	To balance due the United States to be accounted for in next account,	7,532 71
		$21,048 17

1856.	Cr.	
31 Jan'y.	By balance to be accounted for as stated in last ac't,	$10,846 60
20 Feb'y.	Received from Treasurer U. S.,	10,000 00
11 March.	" " Major Hiram Leonard, Paymaster U. S. A.,	60 00
29 "	Received from J. A. Haskin, Capt. 1st Art'y, proceeds of effects of Wm. McLaughlin, dec'd, late Co. "D," 1st Art'y,	15 95
	Received from J. A. Haskins, Capt. 1st Art'y, proceeds of effects of Edward Walsh, dec'd, late Co. "D," 1st Art'y,	33 60
	Received from J. A. Haskins, Capt. 1st Art'y, proceeds of effects of Hiram Monk, dec'd, late Co. "D," 1st Art'y,	89 25
	Received from Br't Lt. Col. J. W. Winder, overpaid voucher, 19 Jan'y, 1856,	1 77
	Received from private J. Tracy, overpaid voucher, 19 Jan'y, 1856,	1 00
		$21,048 17

Stated at Fort Moultrie, in the State of South Carolina, this thirty-first day of March, 1856.

J. Y. DASHIELL,
P. M. U. S. Army.

J. Y. Dashiell, Paymaster, in account with the United States.

1855.	Dr.		
April 24,	To requisition No. 5037,		$25,000 00
June 16,	" " " 5235,		15,000 00
	" " 5236,		8,000 00
Aug. 15,	" " 5491,		15,000 00
22,	" " 5881,		5,000 00
	" " 5882,		10,000 00
Nov. 5,	" " 5738,		9,000 00
1856.			
Feb. 12,	" " 6080,		10,000 00
April 5,	" " 6234,		5,000 00
	" " 6235,		17,000 00
April 24,	To D. Hunter, Paymaster,		
1856.			
May 2,	Received of him,	100 00	
11,	Received of him, $100, $75, $90, $100, $20, $30, $70, $30, $35, $30, $25, $45, $250,	895 00	
14,	Received of him, $50, $300, $40, $200, $400, $150, $42,	1182 00	
15,	Received of him, $55, $100, $100,	255 00	
29,	Rec'd of him, $40, $22, $80,	142 00	
June 15,	Received of him,	12 50	
			2,586 50
	To B. W. Brice, Paym'r, received of him, 23, '55,		25 00
	To G. H. Ringgold, Paym'r, for amount received by Paym'r Dashiell, from Serg't D. Johnson, May 1, '55, for an over payment made to him by Paym'r Ringgold,		90
	To D. Hunter, paym'r, rec'd of him, 11 May, '55,		150 00
	To St. Clair Denney, paym'r, rec'd of him, 14 May, '55, $50, $125,		175 00
	To L. J. Beall, paym'r, rec'd of him, 14 June, '55,		10 00
	To H. Leonard, paym'r, received of him, 7 January, '56,		7,178 00
	Carried forward,		129,125 40
	To amount brought forward,		129,125 40
	To appropriation for amount received from Lt. H. W. Slocum, Aug. 7, '55, for proceeds of effects of F. Schort, private, Co. "H." 1st art'y,		4 21

	For do. do. Bvt. Major J. A. Haskin, Sept. 10, '55, for proceeds of do. of P. Tracy, private, Co. "D." 1st art'y.	50 00
	For do. do. Capt. B. H. Hill, 12 January, '56, for do. of T. P. Murry, private, Co. "M." 1st art'y,	7 90
	For do. do. from do., 12 January, '56, for proceeds of do. of W. F. Scott, private, Co. "M." 1st art'y,	2 80
	For amount received from Lt. L. O. Morris, 13 January, '56, for amount appropriated to Mil. Asylum,	5 00
	For do. of Lt. H. W. Slocum, 31 December, '55, am't appropriated to Mil. Asylum,	63
	For amount rec'd of Capt. J. A. Haskins, 29 March, '56, for proceeds of effects of E. Walsh, Co. "D." 1st art'y,	33 60
	For do. do. do. proceeds of effects of Wm. McLaughlin, of Co. "D." 1st art'y.	15 95
	For do. do. do. proceeds of do. of H. Monk, Co. "D." 1st art'y,	89 25
	Carried forward,	129,334 74
1855.		
	To amount brought forward,	129,334 74
Aug. 30,	To H. Douglass, Ord. Serg't, rec'd of him, 31 July, '55,	06
22,	To requisition No. 5506,	1,000 00
1856.		
Jan. 7,	To J. M. Galt, mil. S. K., rec'd of him, Dec., '55,	36 28
	To L. O. Morris, Lt. 1st art'y, received of him, 14 May, '55,	10 65
		$130,381 73
	To Balance due the United States per contra,	$29,977 54

CR.

1855.		
Sept. 21,	By J. R. Hagner, paym'r, transferred to him, 7 February, '55,	100 00
Nov. 30,	By H. Hill, paym'r, transferred to him, 14 May, '55,	155 74
1856.		
Jan. 26,	By B. W. Brice, paym'r, transferred to him, 8 Aug., '55,	28 00

By St. Clair Denney, paym'r, transferred to him, 26 January, '55,		585 26
By L. J. Beall, paym'r, transferred to him, 27 April, '55,		3 55
By J. R. Hagner, paym'r, transferred to him, 19 Sept., '55,	10 00	
7 Feb., "	3 00	
		13 00
Carried forward,		885 55
By amount brought forward,		885 55
By Appropriation for amount of suspensions now admitted on bond, 126, 127, and 32, charged in sett. of paym'r Dashiell's acc't, 19 June, '50, refunded by Lt. Thos. J. Wood, 2d Drag. to paym'r Johnson (who was charged to appropriation, 7 January, 1851), paid over to paym'r Brice, by Dashiell, November 8, 1854,		10 41
For amount disbursed by him from 6 Mar., 1855, to 31 March, 1856, per general abstract of disbursements,		99,508 23
Carried forward,		100,404 19
By amount brought forward,		100,404 19
By Balance due the United States carried down,		29,977 54
		$130,381 73

Treasury Department, Second Auditor's Office, May 22, 1856.
G. W. MERCER.

Second Comptroller's Office, July 8, 1856. W. A. EVANS.

No. 3956. Treasury Department,
Second Auditor's Office, May 22d, 1856.

I certify that I have examined and adjusted the account of J. Y. Dashiell, paymaster, and find that he is charged and chargeable as follows:—

1855.

April	24, To Requisition No.	5037,	25,000 00
June	16, " "	5235,	15,000 00
"	" "	5236,	8,000 00
Aug.	15, " "	5491,	15,000 00
Nov.	5, " "	5738,	9,000 00
Dec.	22, " "	5881,	5,000 00
Aug.	22, " "	5506,	1,000 00

Aug. 30,	To H. Douglass, Ord. Serg't, rec'd of him 31 July, '55,			06
Dec. 22,	" Requisition No. 5882,		10,000	00
1856.				
Jan'y 7,	" J. M. Galt, mil. S. K. rec'd of him in Dec. '55,		36	28
Feb'y 12,	" Requisition No. 6080,		10,000	00
April 5,	" " 6234,		5,000	00
"	" " 6235,		17,000	00
24,	" D. Hunter, paym'r,			
	" rec'd of him May 2d, 1855,	100 00		
	" May 11, " $100, $75, $90, $100, $20, $70, $30, $35, $30, $25, $45, $5, $250,	895 00		
	" rec'd of him May 14, 1855, $50, $300, $40, $200, $400, $150, $42,	1182 00		
	" rec'd of him May 15, 1855, $55, $100, $100,	255 00		
	" rec'd of him May 29, 1855, $40, $22, 80,	142 00		
	" rec'd of him June 15, 1855,	12 50		
			2,586	50
	" L. O. Morris Lt. 1 art'y, rec'd of him 14 May, '55,		10	65
	" B. W. Brice, paym'r, rec'd of him 23 April, '55,		25	00
	" G. H. Ringgold, paym'r, for am't rec'd by paym'r Dashiell from Serg't D. Johnson, May 1, 1855,			90
	" D. Hunter, rec'd of him 11 May, '55,		150	00
	" St. Clair Denny, paym'r, rec'd of him 14 May, '55, $50, $125,		175	00
	" L. J. Beall, paym'r, rec'd of him 14 June, '55,		10	00
	" H. Leonard, paym'r, rec'd of him 7 Jan'y '56,		7,178	00
	" Appropriation for am't rec'd of D. H. W. Slocum, 7 Aug. 55, for proceeds, of effects of F. Schort, private Co. "H," 1 art'y,		4	21
	Carried forward,		130,176	60
	Amount brought forward,		130,176	60
	To appropriation for am't rec'd from Br't Major J. A. Haskin, 10 Sept. for pro-			

ceeds of effects of P. Tracy, private Co. "D," 1st art'y,	50	00
For do. do. from Capt. B. H. Hill, 12 Jan'y, '56, for proceeds of effects of T. P. Marcy, private Co. "M," 1 art'y,	7	90
For do. do. from do. for do. of W. F. Scott, private Co. "M," 1 art'y,	2	80
For do. do. from Lt. W. O. Morris, 13 Jan'y, '56, am't appropriated to Mil. Asylum,	5	00
For do. do. from Lt. H. W. Slocum, 31 Dec. '55, am't appropriated to Mil. Asylum,		63
For do. do. from J. A. Haskin, 29 March, '56, proceeds of effects of E. Walsh, Co. "D," 1 art'y,	33	60
For do. do. from do. for proceeds of do. of W. McLaughlin, Co. "D," 1st art'y,	15	96
For do. do. from do. for proceeds of H. Monk, Co. "D," 1st art'y,	89	25
	130,381	73

1855.

And is credited and entitled to credit as follows:—

Sept. 21,	By J. R. Hagner, paym'r, transfer'd to him 7 Feb. 55,	100	00
Nov. 30,	" K. Hill, paym'r, transfer'd him 14 May, '55,	155	74
1856.			
Jan'y 26,	" B. W. Brice, paym'r, transferred to him 8 Aug't, '55,	28	00
	" Lt. Clair Denny, paym'r, transferred to him 26 Jan. '55,	585	26
	" L. J. Beall, paym'r, transferred to him 27 April, '55,	3	55
	" J. R. Hagner, paym'r, transferred to him 19 Sept. '55,	13	00
Appropriation.			
	For am't disbursed by him from 6 March, 1855, to 31 March, 1856, pr. gen'l abs't of disb'ts,	99,508	23
	For am't of suspensions (now admitted) on vo's, 126, 127, and 32, charged in sett't of paym'r Dashiell's acc't, 19 June, 1850, refunded by Lt. Thos. J. Wood, 2d drag's to paym'r Johnson (who was charged to		

appropriation 7 Jan'y, 1851), paid over to paym'r Brice, by Dashiell, November 8, 1854,		10 41	100,404 19
Leaving an aggregate balance due the U. States of			$29,977 54
Under the following appropriations, due the United States, Forward			
Pay of the army,		11,350 64	
Subsistence,		14,650 89	
Forage,		1,054 40	
Pay in lieu of clo. off's ser'ts,		780 11	
Raising 4 add'l regiments,		1,180 91	
Expenses of recruiting,		4 65	
		$31,021 60	
Due the paymaster.			
Clothing of the army,	833 06		
3 mo's extra pay,	114 00		
Relief of certain Tenn. vol's, act 7 Aug. 1848,	83 05		
Pay of volunteers,	13 95	1044 06	29,997 54

A req'n to be issued in his favor for creditor balances, to be covered by counter-req'n, $465 on ac. exp's recruiting, and $1039 41 on ac. of raising 4 add'l regiments.

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

P. CLAYTON, Second Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's Office.

I admit and certify the above, this 8th day of July, 1856.

J. M. BROADHEAD,
Second Comptroller.

Under Bond of 19 *March*, 1855.

The United States in account current with Major J. Y. Dashiell, Pay'm. in the Army of the United States.

1856.	Dr.	
31 May,	For am't expended as per abstract and vouchers herewith in paying the troops, since the 31 day of March, 1856, the date of last account rendered,	$14,159 12

9 April,	Turned over to Major B. W. Brice, Pay'm U. S. Army,	28 00
" "	Turned over short payments to Ord. Serg't Edwin Burt, vous. 56 abstract 31 Dec., 55.	10 00
	To balance due the United States to be accounted for in next account,	15,336 69
		$29,533 81

1856. CR.

31 March,	By balance to be accounted for as stated in last account,	$7,532 71
11 April,	Received treasury draft ass't treasurer at Charleston,	17,000 00
" "	Received treasury draft ass't treasurer at New York,	5,000 00
23 "	Received Lt. J. D. Bingham am't appropriated Hospital Fund Barancas Barracks, Flo'a,	10
23 "	Received Lt. J. D. Bingham, am't appropriated Post Council Fund Barancas Barracks Mil. Asylum,	1 00
		$29,533 81

Stated at Fort Moultrie in the State of South Carolina this fourth day of June, 1856.

J. Y. DASHIELL,
Pay'm. U. S. Army.

Under Bond of 19 *March*, 1855.

The United States in account current with Major J. Y. Dashiell, Pay'm. in the Army of the United States.

1856. DR.

31 July,	For amount expended as per abstract and vouchers herewith in paying the troops, since the 21 day of May, 1856, the date of last account rendered,	15,634 99
	To balance due the United States to be accounted for in next account,	6,029 70
		$21,664 69

1856. CR.

31 May,	By balance to be accounted for as stated in last account,	15,336 69
16 June,	" draft on the ass't treasurer at Charleston,	5,000 00
13 "	" amount placed to my credit, with the ass't treas. at New York,	1,000 00

18 July,	" balance received of W. L. O. Morris, proceeds of effects of Jno. Bohan, dec'd, late Co. L, 1st Art'y,		53 00
	" balance Br't Lt. Col. J. H. Windsor, effects of J. Nevin, dec'd Co. G. 1st Art'y,		265 00
29 "	" Ord. Serg't Luke Walker, an over payment by Major Ringgold to him 1 July, 30 Sept., '54,		10 00
			$21,664 69

Stated at Fort Moultrie in the State of South Carolina, this thirty-first day of July, 1856.

J. Y. DASHIELL,
Pay'm U. S. Army.

Under Bond of March 19, 1855.

The United States in account current with Major J. Y. Dashiell, Paymaster in the Army of the United States.

1856. DR.

30 Sept.	For amount expended as per abstract and vouchers herewith, in paying the troops since the 31 day of July, 1856, the close of last account rendered,		9,844 28
	To balance due the United States to be accounted for in next account,		11,313 78
			$21,158 06

1856. CR.

31 July.	By balance to be accounted for, as stated in last account,		6,029 70
7 Aug.	" received from Treasurer U. S., draft on Ass't Treas'r at New York,		5,000 00
9 Aug.	" received from Treasurer U. S., draft on Ass't Treas'r at Charleston,		10,000 00
	" received Detach. Co. A, 1 art. overadded vou. 34, abst. March and April, 1856,		43 60
	" received Detach. Co. D, 1 art. overadded vou. 35, abst. March and April, 1856,		84 76
			$21,158 06

Stated at Fort Moultrie, in the State of South Carolina, this thirtieth day of September, 1856.

J. Y. DASHIELL, Paym'r U. S. Army.

Under Bond of 19 *March*, 1855.

The United States, in account current with Major J. Y. Dashiell, Paymaster in the army of the U. States.

1856.	Dr.		
30 Nov.	For amount expended, as per abstract and vouchers herewith, in paying the troops, since the 30th day of September, 1856, the date of last account rendered,	19,227	87
	To balance due the United States, to be accounted for in next account,	12,380	04
		$31,607	91

1856.	Cr.		
30 Sept.	By balance, to be accounted for as stated in last account,	11,313	78
" Oct.	Received from Treasurer U. S., deposited Ass't Treasurer, at New York,	5,000	00
14 "	Received from Treasurer U. S., deposited Ass't Treasurer, at Charleston,	15,000	00
	Received from Lt. L. O. Morris, over-payment from 1 Jan., '55, to 30 Ap'l, 55,	24	00
	Received from J. Reed, private, Co. A. 1 art'y, overpaid, and roll overadded, roll to 31 August, '55,	7	34
	Received from A. W. Thompson, Co. D. 1 art'y, overpaid, roll Sept. and Oct., 1855,		32
	Received from S. M. Dalton, Co. L. 1 art'y, overpaid, roll March and April, '55,	4	97
	Received from Co. M. 1 art'y, pay of Serg't N. Newman, and private, P. Donoghue, not receipted for, included in the roll, from 1 Nov., '54, to 31 August, '55,	171	00
	Received from Co. G. 1 art'y, pay of J. Nevin, private, not receipted for, included in the roll for July and August, '55,	19	50
	Received from Co. A. Engineers, pay of H. C. Smith, and W. W. Walsh, not receipted for, is included in roll, Jan'y and Feb'y, '56,	67	00
		$31,607	91

Stated at Fort Moultrie, in the State of South Carolina, this third day of December, 1856.

J. Y. DASHIELL,
Paym. U. S. Army.

J. Y. Dashiell, Paymaster in account with the United States.

1856. Dr.

July	8.	To balance on sett.			$29,977 54
June	9.	" requisition, No. 6466,			5,000 00
"	"	" " 6468,			1,000 00
April	4.	" " 6645,			5,000 00
"	"	" " 6646,			10,000 00
Sept.	5.	" " 6749,			1,044 06
October	6.	" " 6909,			5,000 00
"	"	" " 6910,			15,000 00
Decem.	8.	" " 7117,			15,000 00
"	"	" " 7118,			1,000 00
Nov.	24.	" H. Leonard, paym., for am't rec'd of him 13 March, 1856,			60 00
		" Appropriation—			
		for am't rec'd of Lieut. J. D. Bingham, for Mil. Asylum, 23 April, 1856,	$ 1 10		
		" " for proceeds of effects of serg't J. Bohan, late of Co. L. 1 art'y, rec'd 18 July, 1856,	53 00		
		" " for proceeds of effects of private J. Navin, late of Co. G. 1 art'y, rec'd 28 July, 1856,	265 00		
		" " for am't rec'd of ordnance serg't, Luke Walker, overpayment to him by paym. Ringgold, to 30 Sept., '54, July 29, '56,	10 00		329 10
					$88,410 70
		" balance due U. States,			$28,484 13

1856. Cr.

Sept.	8.	By requisition No. 6503,			$1,044 06
October	7.	" N. Grant, Lieut. 13 Inf., for over-payment on vo. 22, travelling subsistence, susp'd,			4 00
		" Appropriation—			
		for amount paid E. Burt, ordnance serg't, short p'd on abstract for Decem., '55, and January, '56,	10 00		
		" " for am't of suspensions admitted as per abstract,	202 87		
		" " for am't disbursed by him,			

from 1 April, to 30 November, 1856,	58,665 64	58,878 51
Balance,		28,484 13
		$88,410 70

Treasury Department, Second Aud. office, January 31, 1857.
L. BEARD.

2d Comptroller's office, March 6, 1857. W. A. EVANS.

Treasury Department, Second Auditor's Office,
No. 4836. January 31, 1857.

I certify that I have examined and adjusted the account of J. Y. Dashiell, Paymaster, and find that he is charged and chargeable as follows:—

1856.

July 8,	To balance on settlement,		$29,977 54
June 9,	" Requisition No. 6466,		5,000 00
" "	" " 6468,		1,000 00
Aug. 4,	" " 6645,		5,000 00
" "	" " 6646,		10,000 00
Oct. 6,	" " 6909,		5,000 00
" "	" " 6910,		15,000 00
Dec. 8,	" " 7117,		15,000 00
" "	" " 7118,		1,000 00
Nov. 24,	" H. Leonard, Pay M'r, for am't rec'd of him 13 March, 1856,		60 00
	" Appropriation—		
	For am't rec'd of Lt. J. D. Bingham, for Mil. Asylum, 23 April, '56,		1 10
	For am't of effects of Serg't J. Bohan, late of Co. L. 1 Art'y, rec'd, 18 July, 1856,		53 00
	For am't of effects of private J. Nevin, late of Co. G. 1 Art'y, rec'd 28 July, 1856,		265 00
	For am't received of Ord'y Serg't Luke Walker, overpayment to him by Pay M'r Ringgold, July 29, '56,		10 00
			$87,366 64

And is credited and entitled to credit as follows:—

Oct. 7, 1857.

By N. Grant, Lieut. 13 Inf., for overpayment on vou. 22 travelling sub's suspended,	$4 00	
" Appropriation—		
For am't paid E. Burt, Ord'y		

Serg't, for short payment on abs't for Decem. '55, and Jan'y, '56,	$10 00		
For am't suspensions admitted,	202 87		
For am't disbursed by him from 1 April to 30 Nov'r, 1856,	58,665 64		
		58,878 51	
			58,882 51
Leaving an aggregate balance due U. States of under the following appropriations due the United States:—			$28,484 13
Pay of the army,		$10,576 86	
Subsistence of officers,		15,793 51	
		$26,370 37	28,484 13
Brought forward,		$26,370 37	28,484 13
Due the United States—			
Forage,		951 20	
Pay in lieu clo. off's servants,		853 04	
Clothing of the army,		418 40	
Raising four additional regiments,		141 50	
		$28,734 51	
Due paymaster—			
Three months' extra pay,	$87 00		
Pay of volunteers,	103 12		
Preventing and supp'g Ind'n Host's,	60 26		
		250 38	
			28,484 13

A req'n to be issued in his favor for creditor balances to be covered by counter-req'n on acc't of "pay of the army," as appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

P. CLAYTON, 2d Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's Office.

I acknowledge and certify the foregoing this 6th day of March, 1857. J. M. BRODHEAD, Second Comptroller.

Account Current. Disbursements under Offi'l Bond, dated March 19, 1855.

The United States in account current with Major J. Y. Dashiell, Paymaster in the Army of the United States.

1857.	Dr.	
Jan'y 31.	For amount expended in paying the troops from November 30th, 1856, the date of last account rendered, to January 31, 1857, as per abstract and vouchers herewith,	16,041 57
	Balance due the United States to be rendered in next account,	12,338 47
		$28,380 04

1856.	Cr.	
Nov'r 30.	By balance to be accounted as stated in last account current of this date,	12,380 04
Dec'r 15.	" received from Treasurer U. S., deposited at Charleston,	15,000 00
" 12.	" received from Treasurer U. S., deposited at New York,	1,000 00
		$28,380 04

Stated at Fort Moultrie, S. C., this tenth day of February, 1857.
J. Y. DASHIELL, Paymaster U. S. A.

Account Current—Disbursements under Official Bond, dated March 19, 1855.

The United States in account current with Major J. Y. Dashiell, Paymaster in the Army of the United States.

1857.	Dr.	
March 31,	To amount expended in paying the troops from 31 January, 1857, the date of last account, rendered to 31 March, 1857, as per abstract and voucher herewith,	34,383 61
12,	Turned over to Major F. A. Cunningham, Paymaster U. S. Army,	40
	Balance due the United States, to be rendered in next account,	22,116 66
		$56,500 67

1857.		Cr.	
January	31,	By balance to be accounted for as stated in last account current of this date,	2,388 47
Feb'y	19,	Received from Treasurer U. S. Deposited at New York, N. Y.,	5,000 00
	21,	Received from Treasurer U. S. Deposited at Charleston, S. C.,	23,000 00
	9,	Received from Capt. A. Cumming 10 Inf'y disallowance 2d Auditor's office,	71 40
	9,	Received from Lieut. J. D. Bingham, 2 Art'y, 2d Auditor's office,	9 80
March	8,	Received from Bv't L't Col. J. H. Winder, proceeds of effects of I. Neyfrom, dec'd, late of Co. "G," 1 art'y,	75
	8,	Received from Bv't L't Col. J. H. Winder, proceeds of effects of Richard Ryan, late of Co. "G," 1 art'y,	6 15
	28,	Received from Treasurer U. S., deposited at New York, N. Y.,	11,000 00
	11,	Received from Serg't M. Bucklin, overpaid, abs't Octo. and Nov'r, '56, vou. No. 51,	1 60
	3,	Received from Corp'l Mott, overpaid, abs't Octo. and Nov'r, '56, vouchers No. 52,	1 00
		Received from Co. "A," Engs. C. A. Foster, pay not receipted for included in the roll, abs't June and July, '56, No. 47,	71 50
			$56,500 67

Received, Fort Moultrie, S. C., Feb'y 9, 1857, of Lieut. J. D. Bingham, 2 art'y, nine dollars eighty cents, being the amount of disallowance in 2d auditor's office for double rations overdrawn from July, 1855, to Feb'y 1856.

$980. J. Y. DASHIELL, P. M. U. S. Army.

Duplicate.

Stated at Fort Moultrie, S. C., this third day of April, 1857.

J. Y. DASHIELL, Paymaster U. S. A.

Account Current—Disbursements under Official Bond, dated 19 March, 1853.

The United States in account current with Major J. Y. Dashiell, Paymaster in the Army of the United States.

1857.		Dr.	
May	31,	To amount expended in paying the troops from 31st March, 1857, the date of last account rendered to 31st May, 1857, as per abstract and vouchers herewith,	15,489 30
"	1,	Lost in Indian River Bar, Flo., as per documents on file in the paymaster gen'l office,	23,115 00
		Balance due the United States, to be rendered in next account,	9,518 51
			$48,122 81

1857.		Cr.	
Mar.	31,	By balance to be accounted for as stated in last account current of this date,	22,116 66
April	13,	Received from Treasurer U. S., deposited at Charleston, S. C.,	26,000 00
May	17,	Received from D. Howley, Co. "A," 1 art'y, over paid vou. No. 68, abs't Feb'y and March, '57,	3 32
"	17,	Received from Serg. Jacobs, overpaid vou. No. 82, abs't Feb'y and March '57,	2 19
"	17,	Received from Bv't J. Meayhew and J. Rippett overpaid vou. No. 82, abs't Feb'y and March '57,	64
			$48,122 81

Stated at Fort Moultrie, S. C., this day of June, 1857.

J. Y. DASHIELL, Paymaster U. S. Army.

J. Y. Dashiell, Paymaster, in account with the United States.

1857.		Dr.	
March	6.	To balance, No. 4836,	$28,484 13
Feb'y	21.	" A. Cumming, Lt. 10 Inf'y, rec'd of him 9 Feb'y, 1857,	71 40
"	14.	" Requisition No. 7356,	23,000 00
"	"	" " " 7357,	5,000 00
March	6.	" " " 7424,	5,000 00
	"	" " " 7425,	11,000 00
	9.	" " " 7433,	250 38

April 7.	To Requisition No. 7528,	26,000 00
June 10.	" " " 7769,	20,000 00
11.	" " " 7774,	15,000 00
"	" " " 7775,	15,000 00
	" J. D. Bingham, Lt. 2d Art'y, rec'd from him 9 Feb'y, 1857,	9 80
Jan'ry 15.	" J. Seymour, Lt. 1 Art'y, rec'd of him 17 Oct. 1856,	241 92
	" Appropriation— for am't rec'd of Lt. Col. J. H. Winder, March 8, '57, for proceeds of effects of I. Neyfrom, dec'd, Co. G 1 art'y,	75
	for do. do. do. do. for proceeds of effects of P. Ryan, Co. "G," 1 art'y,	6 15
		$149,037 53
Balance due the United States as per contra,		$83,207 52

1857. Cr.

March 10.	By Requisition No. 6618,	$250 38
	" W. Jenkins, Lt. 1 a'rty, He was paid as acting A. C. Subs. from 1st July to 30th Sept., '56, but does not drop the increased price of a ration for that time, 92 days at 10c.,	9 20
	" R. C. Dargia, 1 Lt. 1 art'y, In his pay ac. from 1 Novem'r to 31 Dec'r '56, in which he charges the increased price of a ration, he does not drop the increasd price for Aug., '56, while act'g A. C. Subs., 31 days, 10c.,	3 50
	" A. Beckwith, 1 Lt. 1 art'y, In his ac. for March, '57, in which he charges the increased price of a ration, he does not drop the increased price from 24 Octo. to 31 Dec'r, '56, while paid as act'g A. C. Subs., 69 days, 10c.,	6 90
	" A. Smead, 2d Lt. 1 art'y, In his pay ac. for Feb'y, '57, in which he charges the increased price of a ration, he does not drop the increased price from 1 July to 31 Octo., while paid as act'g A. C. Subs. 123 days, 10c.,	12 30
	" F. A. Cunningham, Paym'r, Transferred to him 12 March, '57,	40

By Appropriation— for am't disbursed by him from 1st Dec'r, '56, to 31 May, '57, pr Gen'l Abst. Disb'ts,	65,547	73
Balance carried down,	83,207	52
	$148,037	53

Treasury Department, Second Auditor's office, July 31, 1857.

G. W. MERCER.

2d Comptroller's office, Sept. 4th, 1857.

W. A. EVANS.

No. 5593. 8093.

Treasury Department,
Second Auditor's Office, July 3, 1857.

I certify that I have examined and adjusted the account of J. Y. Dashiell, Paymaster U. S. Army, and find that he is charged and chargeable as follows:—

1857.			
March 6,	To balance No. 4836,		28,484 13
July 15,	" J. Seymour, Lt. 1 art'y, rec'd of him 17 October, '56,		214 92
Feb'y 21,	To A. Cumming, Lt. 10 Inf'y, rec'd of him 9 Feb'y 1857,		71 40
14,	To Requisition No. 7366,		23,000 00
14,	" " 7357,		5,000 00
March 6,	" " 7424,		5,000 00
6,	" " 7425,		11,000 00
9,	" " 7433,		250 38
April 7,	" " 7528,		26,000 00
June 10,	" " 7769,		20,000 00
11,	" " 7774,		15,000 00
11,	" " 7775,		15,000 00
	" J. D. Bingham, Lt. 2 art'y, rec'd of him 9 Feb'y, '57,		9 80
	To appropriation for am't rec'd of Lt. Col. J. H. Winder March 8, '57, for proceeds of effects of J. Neyfrom, dec'd, Co. "G" 1 art'y,	75	
	For am't rec'd of do. for do. of P. Ryan, Co. "G," 1 art'y,	6 15	
			6 90

And is created and entitled to credit as follows:—

1857.		
Mar. 10,	By requisition No. 6618,	250 38
	" W. Jenkins, Lt. 1 art'y—he was paid as act'g A. C. Subs.	

from 1 July to 30 Sept. '56, he does not drop the increased price of ration for that time,		9 20	
By R. C. Dangea, 1 Lt. 1 art'y, he does not drop the increased price of a ration for Aug. '56, while act'g A. C. Subs.,		3 10	
By A. Beckwith, 1 Lt. 1 art'y, he does not drop the increased price of a ration from 24 Octo. to 31 Dec. '56, while act'g A. C. Subs.,		6 90	
Carried forward,		$269 58	149,037 53
Brought forward,		269 58	149,037 53
By A. Smead, 2d Lt. 1 art'y, he does not drop the increased price of a ration from 1 July to 31 October, '56, while paid as act'g A. C. S.,		12 30	
By F. A. Cunningham, Pay M., transferred to him March 12, 1857,		40	
By appropriation, for am't disb'sed by him from 1 Dec. '56, to 31 May '57, per gen'l abst. of debits,		65,547 73	
			65,830 01
Leaving an aggregate balance due the U. States of,			83,207 52
Under the following appropriations due the United States.			
Pay of the army,		46,883 98	
Subsistence of officers,		30,986 45	
Forage,		3,622 40	
Pay in lieu of clothing officers' servants,		1,855 46	
Raising 4 add'l regiments,		119 36	
Expenses of recruiting,		214 93	
		83,632 57	
Due the paymaster,			
Clothing of the army,	202 59		
Travelling all's to vol's Oct. 3, March, '55,	43 73		
3 mos. extra pay,	72 00		
Pay of volunteers,	31 73		
Med. and Hosp. Dept.,	75 00		
		425 05	83,207 52

A req'n to be issued in his favor for credit balances to be carried by counter-req'n for $90 77, on acc. "pay of the army," $119 36, raising 4 add'l regiments, and $214 92, on acc. expenses of recruiting.

As appears from the statement and vouchers herewith transmitted for the decision of the second comptroller of the treasury thereon.

T. J. D. FULLER, Second Auditor.

To the Second Comptroller of the Treasury,

Second Comptroller's Office.

I admit and certify, this 4th day of September, 1857.

J. M. BRODHEAD,
Second Comptroller.

Disbursements under Official Bond dated March 19, 1855.

The United States in account current with Major J. Y. Darshiell, Paymaster in the Army of the United States.

1857.	Dr.	
July 31,	To amount expended in paying the troops from 31 May, 1857, the date of last account rendered, to 31 July, 1857, as per abstract and vouchers herewith,	$39,425 12
	Turned over to Major F. A. Cunningham,	40
	Balance due the United States to be rendered in next account,	20,113 55
		$59,539 07

1857.	Cr.	
May 31,	By balance to be accounted for as stated in last account rendered this date,	$9,518 51
June 15,	Received from treasurer U. S., deposited at New York,	15,000 00
" 15,	Received from treasurer U. S., deposited at Charleston,	20,000 00
" 16,	Received from treasurer U. S., deposited at Charleston,	15,000 00
July 2,	Received from Capt. J. Robers, 4 Art'y, proceeds of effects of private Patrick Carroll, dec'd, late of Co. D., 4 Art'y,	2 81
July 14,	Received from Bv't Col. J. H. Winder, proceeds of effects of private William Railey, dec'd, late of Co. G., 1 Art'y,	5 00
July 17,	Received from J. Harpool, overpaid vou. 53, abs't April and May, 1857,	50
July 2,	Received from Capt. A. Doubleday, overpaid vou. 32, abs't Feb. and May, 1857,	10 00

July 17,	Laundress paid in the cases of B. Cunningham, J. G. Smith, and W. Tompkinson, deserters, there being nothing due them, voucher No. 84, abstract of February and March, 1857,	2 25
		$59,539 07

I certify that the above is a true account of all public money received by me not heretofore accounted for, and that the disbursements have been faithfully made, stated at Fort Moultrie, S. C., this 31 day of July, 1857.

J. Y. DASHIELL,
Paym'r U. S. Army.

J. Y. Dashiell, Paymaster U. S. A. in account with the United States.

1857. DR.

Sept. 4.	To balance No. 5593,		$83,207 52
Aug. 4.	" Requisition No. 7986,		1,000 00
"	" " " 7987,		12,000 00
Sept. 5.	" " " 8093,		425 05
	" Appropriation Received 2 July, '57, of Capt. Roberts, 4 art'y, for effects of P. Carroll, dec'd,	$2 81	
	Received 14 July, '57, of Col. J. H. Winder, for effects of private Wm. Railey, dec'd, of Co. L, 1 art'y,	5 00——	7 81
			$96,640 38
	To balance due the United States,		$56,796 94

1857, CR.

Sept. 8.	By requisition No. 6720,		$425 05
Dec. 8.	" J. Vogdes, Capt. 1 art'y, transferred to him 27 November, '56		214 92
Oct. 14.	" F. A. Cunningham, Paym'r, transferred to him 9 April '57, by S. K. Dawson,		40
	" A. Wall, Ass't Surg'n, overpaid him two days increased pay and subsistence, and an error of 4 cents in calculation. He charges from 10 Sept. '56. Accepted 12th of that month,		2 38
	" Appropriation For amount disbursed from 1 June to 31 July, '57, as per abstract,	$39,109 85	

For amount of suspensions admitted,	90 84——	39,200 69	
Balance carried down,		56,796 94	
		$96,640 38	

Treasury Department, Second Auditor's Office, Dec'r 9, 1857.
ALEX. ELLIOT.

2d Comptroller's Office, January 5, 1858. W. A. EVANS.

Treasury Department,
Second Auditor's Office, Dec. 9, 1857.

I certify, that I have examined and adjusted the account of Major J. Y. Dashiell, Paymaster U. S. A., and find that he is charged as follows:—

1857.	To balance due the United States, sett. Sept. 4, 1857,		$83,207 52
Aug. 4,	" Requisition No. 7986,		1,000 00
	" " " 7987,		12,000 00
	" Appropriation:		
	Received 2 July, '57, of Capt. J. Roberts, 4 art'y, for effects of P. Carroll, dec'd,	$2 81	
	Received 14 July, '57, of Col. J. H. Winder, for effects of Private Wm. Railey, dec'd, of Co. "L," 1 art'y,	5 00	
		——	7 81
			$96,215 33

1857. And that he is entitled to credit, as follows:—

Oct. 14,	By F. A. Cunningham, Paymaster, transferred to him, 9 April, '57,	40	
Dec. 20,	" J. Vogdes, Capt. 1 art'y, transferred to him 29 Novem., '56,	$214 92	
	" A. Wall, Assist. Serg't, overpaid him 2 days' increased pay and subsistence and an error of 4 cents in calculation—(he charges from 10th Sept., 56; he accepted 12th of that month),	2 38	
	" Appropriation:		
	For this amount heretofore suspended now admitted as per abst.,	90 84	
	For am't of disbursements from		

1 June to 31 July, '57, as per abstract herewith	39,109 85	
		$39,418 37
Leaving an aggregate balance due the U. States of		$56,796 94
Thus: Due to the United States:—		
Pay of the army,	$22,857 13	
Subsistence of officers,	28,735 10	
Forage,	3,607 60	
Pay in lieu of clo. officers' servants,	1,757 96	
Clothing of the army,	225 07	
	$57,182 86	
Due the Paymaster:—		
Expenses of recruiting, $214 92		
Med. and Hos. Dep't, 171 00		
	385 92	
		$56,796 94

A requisition to be issued in his favor for creditor balances to be covered by counter requisition on account of pay of the army as appears from the statement and vouchers herewith transmitted for the decision of the second comptroller of the treasury thereon.

T. J. D. FULLER, Second Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's Office.

I admit and certify the above this 5th day of January, 1858.

J. MADISON CUTTS, Second Comptroller.

Account Current. Disbursements under Official Bond dated March 19, 1855.

The United States in account current with Major J. Y. Dashiell, Paymaster in the army of the United States.

1857.	Dr.		
Octo. 31.	To amount expended in paying the troops from 31st July, 1857, the date of last account rendered, to 31st October, 1857, as per abstract and vouchers herewith,	13,234 10	
	Balance due the United States, to be rendered in next account,	19,914 39	
			$33,148 49

1857.		Cr.	
July 31.	By balance to be accounted for as stated in last account current of this date,	20,113	55
Sept. 30.	Received from Treasurer U. S. deposited at New York, N. Y.,	1,000	00
" 30.	" " " "	12,000	00
Oct. 31.	" Lieut. A. Smead, 1 art'y, overpaid as A. A. C. S. from 1 July to 31 Octo., 1857,	12	30
" 30.	" Lieut. C. H. Webber, 1 art'y, proceeds of effects of Prt Peter McDermot, late Co. "H", 1 art'y,	7	40
" 31.	" F. A. Sharp, 1 art'y, amount appropriated to Mil. Asylum at Fort Capron, Fla., Dec'r, 1856,		72
" 31.	" W. Jenkins, overpaid as A. A. C. S. from 1 July to 30 September, 1856,	9	20
" 31.	" John Gaylor, overpaid vo. No. 90 abst. Jan'y & Feb'y, 1857,	5	02
" 31.	" A. Livingston, overpaid vo. No. 90 abst. Jan'y & Feb'y, 1857,		30
		$33,148	49

I certify that the above is a true statement of all public money received by me not heretofore accounted for, and that the disbursements have been faithfully made.

Stated at Fort Moultrie, S. C., this twenty-first day of November, 1857.

J. Y. DASHIELL, P. M. U. S. Army.

Received of Lieut. A. Smead, 1st artillery, this 11th day of October, 1857, at Fort Moultrie, S. C., twelve dollars thirty cents, being the amount stopped against him by 2d Auditor for overcharge in the price of the ration as Acting Commissary of Subsistence from 1st July to 31st October, 1856.

$12 30. (In duplicate.) J. Y. DASHIELL,
P. M. U. S. Army.

Received of Lieut. W. Jenkins, 1st artillery, at Fort Moultrie, S. C., 31st October, 1857, nine dollars twenty cents, being the amount overdrawn as Acting Assistant Commissary from 1st of July to 30 September, 1856.

$9 30. (In duplicate.) J. Y. DASHIELL,
P. M. U. S. Army.

J. Y. Dashiell, Paymaster, in account with the United States.

1858, DR.

Jan'y 5.	To balance No. 6139,			$56,796 94
1857,				
Nov. 25.	" Requisition No. 8356,			12,000 00
" "	" " 8357,			1,000 00
1858,				
Jan'y 5.	" " " 8475,			385 92
	" W. Jenkins, Lt. 1 art'y, rec'd of him 31 Oct. '57,			9 20
	" A. Smead, Lt. 1st art'y, rec'd of him 11 Oct. '57,			12 30
	Appropriation—			
	For am't rec'd of Lt. E. A. Webber, 1 art'y, 31 Octo., '57, for proceeds of effects of Peter M'Dermot, dec'd, Co. H, 1 art'y,	7	40	
	For am't rec'd of F. A. Sharp, Lt. 1 art'y, 2 Octo., '57, am't appropriated to Mil. Asylum at Fort Capron, Fla.	72		8 12
				$70,212 48
To balance due the United States as per contra,				$56,763 96

1858, CR.

Jan'y 8.	By Requisition No. 6785,	$385 92
	" E. Van Ness, D. P. Gen'l for am't refunded to Paym'r V. N. Jan'y 5, 1858, being a suspension against Paym'r D.	17 30
	Appropriation—	
	For am't disbursed by him from 1 Aug. to 31 October, '57, per gen'l abs't of debts.,	13,045 30
	Balance due the United States, carried down,	56,763 96
		$70,212 48

Treasury Department, Second Auditor's Office, March 17, 1858.
G. W. MERCER.

2d Comptroller's Office, April 22, 1858, W. A. EVANS.

Treasury Department, Second Auditor's office, March 17, 1858.

I certify that I have examined and adjusted the account of J. Y. Dashiell, Paymaster U. S. Army, and find that he is charged and chargeable as follows :—

1858.				
Jany. 5,	To balance No. 6139,			56,796 94
1859.				
Nov. 25,	" Requisition No, 8356,			12,000 00
"	" " " 8357,			1,000 00
1858.				
Jany. 6	" " " 8475,			385 92
	" W. Jenkins, Lt. 1 Art'y, rec'd of him 31 Oct, 1857,			9 20
	" A. Snead, Lt. 1 Art'y, rec'd of him 11 Oct, 1857,			12 30
	" Appropriation—			
	For am't rec'd of Lt. C. A. Webber 1 Art'y, $3 10 cts., 57 for proceeds of effects of Peter McDermot, dec'd, Co. H, 1 Art'y,	$7 40		
	For am't rec'd of F. A. Sharp, Lt. 1 Art'y, $3 10 cts., 57 am't appropriated to Mil. Asylum, at Fort Capron, Fla.,	72		8 12
				70,212 48

And is credited and entitled to credit—

1858.			
Jany. 8,	By requisition No. 6785,	385 92	
	" E. Van Ness, D. P. M. Gen'l, for am't refunded to Pay M'r, U. N., Jany 5, 1858, being a suspension against Pay M'r D.,	17 30	
	" Appropriation for am't disbursed by him from 1st Aug't to 31st Oct, '57,	13,045 30	13,448 52

Leaving an aggregate balance due the U. States of $56,763 96

under the following appropriations due the United States:—

Pay of the army,	21,094 15
Subsistence of officers,	29,907 15
Forage.	3,755 60

Pay in lieu of clo. officers' ser'ts,		1,847 96	
Clothing of the army,		225 07	
		56,829 93	
Due the paymaster—			
Med. and hosp'l dep't,	48 00		
Pay in lieu of clo. to dec'd soldiers,	17 47		
	65 97		56,763 96

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

T. J. D. FULLER, Second Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's office.

I admit and certify the above this 22 day of April, 1858.

J. MADISON CUTTS, Second Comptroller.

Account Current—Disbursements under Official Bond, dated March 19, 1855.

The United States in account current with Major J. Y. Dashiell, Paym. in the army of the U. States.

1858. DR.

March 31,	To amount expended in paying the troops from 31 Octo., 1857, the date of last account rendered to 31 March, 1858, as per abstract and vouchers herewith,	$14,838 82	
	" balance due United States to be rendered in next account,	19,085 73	
			$33,924 55

1857. CR.

October 31,	By Balance to be accounted for, as stated in last ac. current of this date,	$19,914 39	
Dec'r 3,	Received from Treasurer U. S., deposited at Charleston, S. C.,	12,000 00	
1,	Received from Treasurer U. S., deposited at New York,	1,000 00	
14,	Received from Bv't L't Col. J. H. Winder, proceeds of effects of private Alfred J. Harris, dec'd, late of Co. G., 1 art'y,	20 00	
14,	Received from Bv't Capt. J. Seymour, overpaid vou. No. 30 abst. Aug. and Sept. 1856,	20	

Received from W. Baker, Co. H, 1 art'y overpaid vou. No. 32 abst. Aug. and Sept. 1856,	33
Received from A. Thompson, Co. A, 1 art'y, overpaid vou. No. 52 abst. Dec., '56, and Jan'y, '57,	1 50
Received from J. McGune, Co. G, 1 art'y, overpaid vou. No. 86, abst. Feb'y and March, '57,	76
Received from Capt. J. M. Gardner, twice paid, increased pay, proper for Decem. '56, vou. No. 98, abst. Feb'y and March, 1857,	20 00
Received from Co. K, 4 art'y roll over added, 31 Dec. '56, vou. No. 87 Feb'y and March, '57,	61 50
Received from Justin Dimick Bv't Col. and Maj., 1 art'y, B't pay from 1 Jan'y to 28 Feb'y, '57, disallowed, vou. No. 57, abs't April and May, '57,	120 80
Received from Justin Dimick Bv't Col. and Maj., 1 art'y, B't pay from 1 March to 30 June '57, disallowed, vou. 14 and 15 abst. June and Feb'y, '57,	246 40
Received from Roll of Staff and Band, 1 art'y, over added, vou. 65 June and July, '57,	10 00
Received from J. Clavin, overpaid, vou. No. 68 abst., June and July, '57,	33 25
Received from James Clark, overpaid, vou. No. 49, abst. Aug. to 31 October, '55,	32
Received from Major J. Y. Dashiell, charged two additional service rations from date of appointment disallowed, vou. No. 1 abstract June and July, 1856,	3 80
Received from Major Geo. C. Hunter, paym. U. S. Army,	491 30
	$33,924 55

Rec'd, Fort Dallas, Fl'a, 14 Decem., '57, of B't L't Col. Jno. N. Winder, U. S. A., and Capt. Co. G, 1 art'y, twenty dollars, being the proceeds of the effects of private Alfred J. Harris, dec'd, late of Co. G, 1 art'y.

$20—(in duplicate). J. Y. DASHIELL, Paym. U. S. Army.

Received of Major Geo. C. Hutter, Paymaster U. S. Army, this thirty-first day of December, 1857, at Charleston, in the State of South Carolina, the sum of four hundred and ninety-one dollar

thirty cents, on account of pay and of the army, for which sum I am accountable.

(Signed duplicates.) J. Y. DASHIELL, Pay'r U. S. Army.

I certify that the above is a true account of all public money received by me, not heretofore accounted for, and that the disbursements have been faithfully made.

Stated at Washington, D. C., this thirty-first day of March, 1858.

J. Y. DASHIELL, Paymaster U. S. A.

J. Y. Dashiell, Paymaster, in account with the United States.

1858.	Dr.	
April 22,	To balance on sett. No. 6733,	$56,763 96
" 23,	" requisition " 8885,	65 97
May 6,	" G. C. Hutter, pay'm, rec'd of him 31 December, '57,	491 30
" "	" appropriation for am't rec'd of Col. J. H. Winder 14 December, '57, for the proceeds of effects of A. J. Harris, Co. G., 1 art'y,	20 00
		$57,341 23
	To balance due U. States	$19,051 31

1858.	Cr.		
April 28,	By requisition No. 6858,		$6,597
	" appropriation for am't disbursed by him from 1 November, 1857, to 31 March, 1858,	$14,939 36	
	For am't of suspensions admitted,	169 59	
	" am't disallowed in last settlement, now brought to his credit a bill for his relief having been passed 21 April, 1858,	23,115 00	
			38,223 95
	Balance carried down,		19,051 31
			$57,341 23

Treasury Department, Second Aud. office, June 22, 1858.

G. W. MERCER.

2d Comptroller's office, July 7th, 1858.

W. A. EVANS.

Treasury Department, Second Aud. office, June 22, 1858.

I certify that I have examined and adjusted the account of J. Y. Dashiell, Paymaster U. S. Army, and find that he is charged and chargeable as follows:—

1858.		
April 22, To balance No. 6733,		$56,763 96
23, " Requisition No. 8885,		65 97
May 6, " Gen'l Hutter, Pay M'r, rec'd of him 31 Decem. '57,		491 30
" Appropriation— For am't rec'd of Col. J. H. Winder 14 Decem. '57, for proceeds of effects of A. J. Harris, Co. G, 1 Art'y.		20 00
		57,341 23

And is credited and entitled to credit as follows:—

1858.			
April 28, By requisition No. 6858,		$65 97	
" Appropriation— For am't disall'd in last sett., am't of money lost in Fla.,		23,115 00	
For am't disbursed by him from 1 Nov. '57 to 31 March, '58,		14,939 36	
For am't of suspensions admitted,		169 59	38,289 92
Leaving an aggregate balance due the U. States of			$19,051 31
under the following appropriations due the United States:—			
Pay of the army,		$9,432 26	
Subsistence of officers,		27,172 20	
Forage,		3,635 60	
Pay in lieu of clo. off's serv'ts,		1,750 46	
Clothing of the army,		259 54	
		$42,250 06	
Due the paymaster—			
For relief of Maj. J. Y. Dashiell, ac't 21 Ap'l '58,	$23,115 00		
3 mos. extra pay,	21 00		
Med. and hosp. dep't,	56 75		
Expenses of recruiting,	6 00		
		23,198 75	
			19,051 31

A req. will issue in favor of Pay M'r Dashiell for $23,198 75 on ac't, balances due him as above to transfer to his credit by counter req. on ac't subs. $22,939 21, and clo. of the army $259 54, as appears from the statement and vouchers herewith transmitted for the decision of the 2d Comptroller of the Treasury thereon.

T. J. D. FULLER, Second Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's office.

I admit and certify the above this 7th day of July, 1858.

J. MADISON CUTTS, Second Comptroller.

J. Y. Dashiell, late paymaster U. S. Army, in account with the United States.

1858. DR.

July 7,	To balance No. 7060,	$42,250 06
19,	" requisition No. 9158,	23,198 75
	" Appropriation :—	
	For this sum, being interest on $13,000 from 25 Nov'r, 1257, to 15 September, 1858, being 9 months 21 days,	630 50
	For this sum, being interest on $6,050 85 from 4 August, 1857, to 15 September, 1858, being 1 year, 41 days,	404 39
	Said interest charged per act 3d March, 1797.	
		$66,483 70
	" balance due the United States,	$20,085 74

1858. CR.

July 7,	By balance No. 7060,	$23,198 75
	" requisition No. 6903,	23,198 75
	" Appropriation :—	
	For amount of suspension admitted for abstract,	46
	" balance carried down,	20,085 74
		$66,483 70

Treasury Department, 2d Auditor's Office, 15 September, 1858.

H. A. OLCOTT.

2d Comptroller's Office, Sept. 21, 1858. W. A. EVANS.

No. 7344. Treasury Department,
Second Auditor's Office, 15 September, 1858.

I certify, that I have examined and adjusted the account of Major J. Y. Dashiell, late paymaster U. S. army, and find that he is charged and chargeable as follows:—

1858.			
July 7,	To balance No. 7060,		42,250 06
19,	" requisition No. 9158,		23,198 75
	" Appropriation:		
	For this sum, being interest on $13,000, from 25 November, 1857, to 15 September, 1858, being 9 m'ths, 21 days,		630 50
	For this sum, being interest on $6,050 85 from 4th August, 1857, to 15th September, 1858, being 1 year, 41 days,		404 39
	Said interest charged per act 3d March, 1797.		
			$66,483 70

1858.	And is credited and entitled to credit, as follows:—		
July 7,	By balance No. 7060,	$23,198 75	
20,	" requisition No. 6903,	23,198 75	
	" Appropriation: For amount of suspensions admitted per abstract,	46	
			46,397 96
	Leaving an aggregate balance due the United States of		$20,085 74
	Under the following appropriations:—		
	Pay of the army,	$10,466 69	
	Subsistence of officers,	4,232 99	
	Forage,	3,635 60	
	Pay in lieu of clothing officers' servants,	1,750 46	
			20,085 74

As appears from the statements and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

T. J. D. FULLER, Second Auditor.

To the Second Comptroller of the Treasury.

Second Comptroller's Office.

I admit and certify the above, this 20th day of September, 1858.

J. MADISON CUTTS, Second Comptroller.

Statement of difference existing on settlement of the account of J. Y. Dashiell, late Paymaster, to 15th September, 1858.

Balance due the United States, per official statement,	$20,085	74
" " " per his last account current rendered,	19,085	73
Difference,	1,000	01

accounted for as follows:

Sett. 5 July, 1856.

Vo.	Abstract for April and May, 1855.	Cr.	Dr.
21.	S. K. Dawson, Capt. 1 art'y, in his a'c from 1 Jan'y to 30 April, '55, is overpaid subsistence for self,		80
	Abstract 1 May to 31 October, '55.		
3.	Co. F, 1 cav., W. Brasil, private, is overpaid,		3 56
	Sett. 6 March, 1857. Abs't 1 April to 31 May, 1856.		
38.	Det. 1 art'y, W. Beall, private, is overpaid, error in calculation,		40
	Abstract June and July, 1856.		
45.	Co. L, 1 art'y, B. Greenman, private, last paid to 30 April, '56, is paid for 4 mos. 26 days in roll to 30 June, '56, overpaid 27 96; deduct am't carried to credit of paym'r, see dress roll and his letter of 27 Dec'r, '57, 19 50		8 46
	Sett. 4 September, 1857. Abstract Feb'y and March, 1857.		
83.	Co. B, 1 art'y, roll to 28 Feb'y, '57, James Carroll, private, is overpaid, stoppage not deducted,		68
	Abstract April and May, 1857.		
50.	Co. E, 1 art'y, roll, March and April, '57, Jas. Chester, private, is overpaid, stoppage not deducted,		20
	Sett. 5 Jan'y, 1858. Abstract June and July, 1857.		
60.	Co. D, 4 art'y, roll to 30 June, '57, Jas. Dumas is overpaid, error in calculation,		10 84
64.	Co. H, 1 art'y, roll to 30 June, '57, C. Castolow, private, is overpaid, error in calculation,		40
	Sett. 22d April, 1858. Abs't 1 July to 31 Oct. 1857.		
38.	Co. D, 1 art'y, July and Aug't, '57. The pay roll is overadded		100 00

Sett. 5 Jan'y, 1856.

Abs't April and May, 1855.

53. Co. G, 1 art'y, roll is short added,	8 00		
Amount carried forward	8 00	125	24
Amount brought forward	8 00	125	24

Abstract June and July, 1855.

40. Co. D, 1 art'y, roll is short added,	2 00	
Amount of suspension admitted in official statement vo. 126, 127, and 32, in sett. of paym'r a'c, 19 June, '50, refunded by Lt. T. J. Wood to Paym'r Johnson, which has been refunded by Paym'r Dashiell,	10 41	
Amount credited by paym'r, in his a'c current of 8 Feb'y, '56, as an over-payment to Corp'l Crawford, not suspended,	28	

Sett. 6 March, 1857.

Abstract 1 April to 31 May, '56.

36. Co. G, 1 art'y, roll is short added,	33 50	

Abstract Aug't and Sept'r, '56.

32. Co. H, 1 art'y, roll is short added,	93	
This sum credited paym'r for over-payment to N. Grant, Lt. 13 inf'y. Vo. 22 travelling subsistence suspended,	4 00	

Sett. 7 July, 1858.

Abs't from 1 Nov'r, '57 to 31 March, 1858.

30. Co. A, 1 art'y, roll Sept. and Oct'r, '57, John Tracey, private, overpaid,		50
32. Co. G, 1 art'y, roll to 31 Oct'r, '57, is short added,	1 00	
33. Co. H, 1 art'y, roll to 31 Oct'r, 57, is short added,	100 50	

Present sett.

For this sum, being interest on $13,000 from 25 Nov'r, '57 to 15 Sept'r, 58, being 9 mos. 21 days		630 50
For this sum, being interest on $6,050 85, from 4 Aug't, 1857 to 15 Sept'r, '58, being 1 year 41 days,		403 39
	160 62	1160 63
Deduct credit am't from debit am't,		160 62
		$1000 01

Treasury Department, 2d Auditor's Office, 15 September, 1858.

Treasury Department, Second Auditor's Office,
22d September, 1858.

Pursuant to an Act of Congress of 3d March, 1817, entitled "An act to provide for the prompt settlement of the public accounts," I, T. J. D. Fuller, Second Auditor of the Treasury Department, do hereby certify that the aforegoing is a transcript from the books and proceedings of the Treasury.

T. J. D. FULLER, Second Auditor.

Be it remembered, that T. J. D. Fuller, Esq., who certified the aforegoing transcript, is now, and was at the time of so doing, Second Auditor of the Treasury of the United States, and full faith and credit are due to his official attestation.

In testimony whereof I, Howell Cobb, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department at the city of Washington, this 22d day of September, 1858. HOWELL COBB,

[SEAL.] Secretary of the Treasury.

United States of America, United States District Court for the Western District of Texas, holding sessions at Austin, County of Travis.

I, Matthew Hopkins, Clerk of the District Court of the United States for the Western District of Texas, at Austin, hereby certify the foregoing 46 sheets hereto attached and numbered for reference by defendants under the arbitrary numbers from one to fifty-four, are a full, complete, and correct copy of Treasury transcript, marked exhibit "B," of defendant's bill of exceptions in the accompanying transcript from this court mentioned. I further certify that it is a portion of the record and thus introduced for the reason of the difficulty of otherwise embodying it in the defendant's bill of exceptions without confusion. In teste whereof, I have hereunto set my hand and impressed the seal of court, at Austin, this 29th day of September, A. D. 1860.

[SEAL.] MATTHEW HOPKINS, Clerk.

United States District Court, Western District of Texas, at Austin, holding sessions.

I, Matthew Hopkins, Clerk of the District Court of the United States for the Western District of Texas, at Austin, hereby certify that the foregoing and annexed two hundred and twenty-three pages, numbered from one to two hundred and twenty-three inclusive of the exhibits, contain a full, true, and correct transcript of the record in the case of the United States *vs.* James Burbank and Harriet R.

Allsbury, ad'tor and ad'trix of Hanson Allsbury, deceased, and numbered 525 on the law docket of this court.

In testimony whereof, I have hereunto set my hand and the impress of the seal of court, at Austin, this first day of November, A. D. 1860.

[SEAL.] MATTHEW HOPKINS, Clerk.

Filed Nov. 23, 1860.

2111

In the Supreme Court of the United States.

DECEMBER TERM, 1866.

UNITED STATES
vs.
BURBANK ET AL. } No. 38.

Wms & Ashton

ERROR TO THE DISTRICT COURT FOR WESTERN DISTRICT OF TEXAS.

BRIEF FOR UNITED STATES.

HENRY STANBERY,
Attorney General.
J. HUBLEY ASHTON,
Asst. Attorney General.

In the Supreme Court of the United States.

DECEMBER TERM, 1866.

UNITED STATES, plaintiffs in error, *vs.* JAMES BURBANK and HARRIET R. ALLSBURY, adm'r and adm'x of HANSON ALLSBURY, deceased.	No. 38.

STATEMENT OF THE CASE.

This was an action on the official bond of Jeremiah T. Dashiell, paymaster of United States army, brought against the personal representatives of Hanson Allsbury, one of the sureties in said bond. The principal obligor and one of the sureties in said bond were sued in a separate action. That case is now in this Court on writ of error (No. 37.)

In the present case the same verdict and judgment were rendered, in favor of the United States, as in the suit against the principal obligor.

The bill of exceptions in this record shows that the defendants gave mainly the same evidence on the trial of this as on the trial of the former case. (Record, pp. 16—32.)

The same objections were made to the admission of evidence, which the Court in both cases overruled. (Record, p. 17.)

The only additional error in the present case, on the part of the court below, consisted in that portion

of its charge in which it instructed the jury that "the verdict and judgment rendered on yesterday in the suit, United States *vs.* Jeremiah T. Dashiell and Isaiah A. Paschal, showing a finding of $10,318.22 in favor of the United States, is in evidence before you; *and this is so far conclusive that you cannot render a greater verdict against the security in this case unless you believe the additional facts now in evidence will so authorize you.*"

The United States Attorney objected to this portion of the charge. His objection was overruled, and an exception noted. (Record, p. 31.)

We refer to the brief filed in No. 37 for an argument on those questions that are common to both cases.

The question raised by the objection and exception to the foregoing charge of the court, which is peculiar to the present case, will be alone considered here.

POINTS.

First point. The verdict and judgment in the case of United States. *vs* Dashiell *et al.* were *res inter alios acta*, and therefore not admissible.

2 Phillips on Evidence, 10.

Starkie on Evidence, 81, 85.

Burrell *v.* West. (2 New Hamp., 192.)

Baring *v.* Fanning. (1 Paine's C. C. R., 549.)

1. In an action on a recognizance to keep the peace against the surety, a verdict and judgment in a former case against the principal are not admissible.

Respublica *v.* Davis. (3 Yeates, 128.)

2. In an action against a sheriff and his securities on his official bond for a trespass, a judgment against

the sheriff alone in trover for the same cause is not binding on the question of damages.

Carmack *v.* The Comm., 5 Binney, 184.

3. On a bill in equity by a creditor against the executors of a deceased partner, a judgment at law against the surviving partner is not admissible in evidence except to prove the simple fact of recovery against the surviving partner.

Sturges *v.* Beach *et al.* (1 Conn., 507.)

4. The record of a recovery against a *guardian* is not evidence against his *securities* in an action by the plaintiff in that recovery against the securities to subject them on the guardian bond for a default of their principal.

McKellar *v.* Bowell. (1 Hawks, 34.)

5. A decree against an executor is not evidence of a debt against devisees on a bill filed to charge the real estate.

Duvall *v.* Green. (4 Har. & John., 270.)

Gaither *v.* Welsh. (Gill. & John., 259.)

Osgood *v.* Manhattan Co. (3 Cowen, 612.)

Scott *v.* Young. (4 Paige, 542, 546.)

Neal *v.* McCombs. (2 Ter., § 10.)

6. Where a judgment was obtained at law against three out of four sureties, it was held that on a bill for contribution by the former against the latter, he was not concluded by the judgment.

Thompson *v.* Young. (2 Ham. Rep., 334.)

7. Where a surety bond was for the faithful performance of A's duty as deputy sheriff, and a judgment was obtained against A for his official default, it was held that the record was not admissible in evidence against the surety.

Beall *v.* Beck. (3 Harris & McHenry, 242.)
Lartigue *v.* Baldwin. (7 Martin, La. Rep., 193.)

Second point. The recovery against the principal in a former suit was not evidence for or against either party to the present suit, and should not have been admitted on this trial.

The judgment of the district court should be reversed.

HENRY STANBERY,
Attorney General.
J. HUBLEY ASHTON,
Asst. Attorney General.

Dec. 17. Assumed Clifford

441

SUPREME COURT OF THE UNITED STATES.

No. ~~239~~. 165. 74. 50. 47
1 46. 44.

RICHARD CHRISTMAS, PLAINTIFF IN ERROR,

v.

JOHN W. RUSSELL, USE, &c.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

G. S. GIDEON, Printer, No. 511 Ninth Street, Washington, D. C.

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SUPREME COURT OF THE UNITED STATES.

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IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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JOHN W. RUSSELL, use, &c.,
v.
RICHARD CHRISTMAS.

Pleas before the Honorable Samuel J. Gholson, District Judge of the United States, at a Circuit Court of the United States in and for the Ninth Circuit and Southern District of Mississippi, held at the city of Jackson, at the May Term, in the year of our Lord one thousand eight hundred and sixty.

Be it remembered that heretofore, to wit, on the fourth day of June, A.D. 1869, the following writ of summons ad respondendum, issued out of the clerk's office of the court aforesaid, in the words and figures, to wit:

Summons.

United States of America, Southern District of Mississippi, *ss.*

The President of the United States to the Marshal of the Southern District of Mississippi, greeting:

We command you, without delay, to summon Richard Christmas, a citizen of the State of Mississippi, that he be and appear at the Circuit Court of the United States, to be held at the city of Jackson, in and for the Southern District of Mississippi, on the first Monday of November next, to answer to John W. Russell, who sues for his own, and the use of Jacob Swigert, Philip Swigert, Edward H. Watson, and Thomas H. Lindsey, in his own right, and for the use of said Lindsey, as administrator of Churchill Samuel, deceased, all citizens of the State of Kentucky, of a plea that he render unto said plaintiff, for the use aforesaid, the sum of $\$5634\frac{13}{100}$, with 6 per cent. interest thereon, from the 1st day of March, 1841, which he owes to and unjustly detains from him, to his damage twenty thousand dollars; and that he do file his plea, or defence, with the clerk of said court, on or before the meeting of the same, or judgment will be given against him by default; and have then and there this writ.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, the 4th day of June,
[L. S.] A.D. 1859, and in the 83d year of the independence of the United States of America.

W. H. BROWN,
Clerk.

Marshal's Return.

Received June 4th, 1859.

R. GRIFFITH,
Marshal, &c.

Executed August 15th, 1859.

RICHARD GRIFFITH,
Marshal of the So. Dist. of Miss.
By JAS. L. MAYFIELD,
Deputy Marshal.

And on the same day of suing out the writ aforesaid, to wit, on the 4th day of June, A.D. 1859, John W. Russell, use, &c., plaintiff, by (C. L. & R. S. Buck), his attorneys, filed their declaration herein against Richard Christmas, defendant, in the following words and figures, to wit:

Declaration.

United States of America, in the U. S. Circuit Court for the Southern District of Mississippi, *sct.*

John W. Russell, a citizen of the State of Kentucky, plaintiff, who sues for his own, and the use and benefit of Jacob Swigert, Philip Swigert, Edward H. Watson, and Thomas N. Lindsey, in his own right, and for the use and benefit of said Lindsey, as administrator of Churchill Samuel, deceased, all citizens of the State of Kentucky, complains of Richard Christmas, a citizen of the State of Mississippi, and of the circuit and district aforesaid, defendant, &c., of a plea that he render to the plaintiff, for the use aforesaid, the sum of $5634 13 cents, with 6 per cent. interest thereon, from the 1st day of March, 1841, until paid, subject to a credit of $200, as of the said 1st day of March, 1841; and also the further sum of $200 for costs, which the defendant owes to the plaintiff for the use aforesaid, and from him unjustly detains. For that whereas heretofore, viz., on the 11th November, 1857, in the State of Kentucky, in the Jefferson Circuit Court, held in the city of Louisville, county of Jefferson, and State of Kentucky aforesaid, on the said 11th day of November, 1857, by the judgment of said court, then and there rendered, on the petition of plaintiff against said defendant, to answer which he had been duly summoned, he, the plaintiff, recovered against the said defendant the aforesaid sum of $5634 13 cents, with 6 per cent. interest thereon, from the 1st day March, 1841, until paid, and also his costs in said suit expended, which costs are, as aforesaid, the sum of $200.

But the said plaintiff subsequently, viz., on the 19th June, 1858, remitted to defendant $200 of the aforesaid judgment, to be entered as a credit, as of the 1st March, 1841, from which said judgment

defendant afterwards took his appeal to the Court of Appeals for said State of Kentucky; and on the 31st day of March, 1859, there was filed in the said Jefferson Circuit Court the mandate of the Court of Appeals aforesaid, affirming the judgment aforesaid of the Jefferson Circuit Court, of all which defendant was convicted, as by the record and proceedings of said suit remaining in said Jefferson Circuit Court more fully appears, which said judgment remains in full force and effect, not reversed, satisfied, or otherwise vacated; and the said plaintiff has not obtained any execution, or satisfaction of or upon said judgment, recovered as aforesaid, whereby an action hath accrued to the said plaintiff to demand, and have of and from the said defendant the said sum of $5634 13 cents above demanded, with 6 per cent. interest thereon, from the 1st day of March, 1841, aforesaid, until paid, subject to the credit of $200, 1st March, 1841, as aforesaid, and the said sum of $200 adjudged the plaintiff for his costs as aforesaid.

Yet the said defendant, although often requested so to do, hath not, as yet, paid the said sums of money above demanded, or any part thereof, to the said plaintiff, or to the plaintiff for the use aforesaid, but to do the same hath hitherto wholly refused, and still refuses, to the damage of the plaintiff of $20,000, and therefore he sues, &c.

C. L. & R. S. BUCK.
MARSHALL & MILLER,
For Plaintiffs.

And on the 8th day of November, A.D. 1859, the following pleas were filed in this cause, to wit:

United States of America, State of Mississippi. In the Circuit Court of the United States for the Southern District of Mississippi. To November Term, 1859.

RICHARD CHRISTMAS
v.
JOHN W. RUSSELL.

1st. And the said defendant, by attorney, comes and defends the wrong and injury, when, &c., and for plea says, the plaintiff, his action aforesaid, ought not to have and maintain, because, he says, there is no such record as in said declaration the plaintiff hath above set forth; and this he prays the court to inquire, and in *actio non*, &c.

A. BURWELL,
For Defendant.

2. And for a further plea, by leave of the court first had, defendant says *actio non*, &c., because he says that the cause of action set forth in the supposed record in the said declaration mentioned, was

barred by the act of limitations of the State of Mississippi, at the time the said plaintiff instituted and commenced the suit thereon in said pretended record set forth, and the defendant avers that at the time of the commencement of the said action of the said plaintiff, in the State of Kentucky, which is without the State of Mississippi, and from thence to the present time, and at the time the cause of action accrued to the said plaintiff, to wit, on the 1st day of March, A. D. 1841, the said defendant was a resident of the State of Mississippi, and during all the time from the said 1st of March, 1841, to the present time, was a domiciled citizen of said State, and had a mansion-house therein; and defendant avers that on the 5th day of September, A. D. 1853, the said cause of action was barred because he says that more than six years had elapsed from the accruing thereof, and this he is ready to verify, wherefore he prays judgment and in action now, &c.

A. BURWELL,
For Defendant.

3. And for a further plea, said defendant by leave, &c., says: the plaintiff, his action aforesaid, ought not to have and maintain, because he says that heretofore and before the institution of the suit, to wit, on the 1st day of May, A. D. 1859, at, to wit, the district aforesaid, he, the said defendant, well and truly paid to the said plaintiff the debt in the said declaration demanded and all costs and interests thereon, and this he is ready to verify, wherefore he prays judgment, &c., *actio non*, &c.

A. BURWELL,
For Defendant.

4. And for a further plea in this behalf by leave, &c., said defendant says *actio non*, because he says that the judgment in said declaration mentioned and set forth was obtained and procured by the said plaintiff, by fraud of the said plaintiff, and this the said defendant is ready to verify, wherefore he prays judgment *si actio non*, &c.

A. BURWELL,
Defendant's Attorney.

5. And for a further plea, said defendant by leave, &c., says *actio non*, &c., because he says, that at the time of the institution of the said suit in the plaintiffs' declaration mentioned in the Circuit Court of Jefferson County, in the State of Kentucky, a place without the said State of Mississippi, to wit, on the 5th day of September, A. D. 1853, the said defendant was a resident of the State of Mississippi, domiciled therein, and the said defendant had been a resident of said last State, from the execution of the promissory note in said suit described as the cause of action therein from the date thereof, and at the date of the same, until the said 5th day of September, A. D.

1853, a period of more than six years, and the said defendant avers that he the said plaintiff well knew the said residence of the said defendant, and did not institute suit on the said supposed cause of action, within six years from the accruing thereof, and this said defendant is ready to verify, wherefore he prays judgment, *si*, &c.

A. BURWELL,
Defendant's Attorney.

6. And for a further plea said defendant says *actio non*, &c., because he says at the institution of the said suit in the State of Kentucky, and at the date of the rendition of the said supposed judgment, the said defendant was a resident of the State of Mississippi, to wit, in the district aforesaid, and defendant avers that such residence of the said defendant was well known to the said plaintiff, and defendant avers that the said supposed cause of action in the said supposed record mentioned, had accrued to the plaintiff if at all more than six years before the institution of the said suit in the Circuit Court of Jefferson County in the State of Kentucky, a place without the said State of Mississippi, and said suit was instituted to evade the laws of the State of Mississippi, and in fraud of said laws, and this defendant is ready to verify, wherefore he prays judgment, *si*, &c.

A. BURWELL,
Defendant's Attorney.

And on the 10th November, A. D. 1859, the following replication to 3d plea, and demurrer to 2d, 4th, 5th, and 6th pleas was filed in this cause, to wit:

Replication and Demurrer to Pleas.

United States Circuit Court, November Term, 1859.

JOHN W. RUSSELL
v. } 122.
RICHARD CHRISTMAS.

And the said plaintiff for replication to the third plea, by the said defendant above pleaded, says *precludi non*, because, he says, the said defendant did not pay the said debt and all costs in said declaration mentioned, as said defendant in his said third plea hath alleged, and this he, said plaintiff, prays may be inquired of by the country.

MARSHALL & MILLER, and
C. L. & R. S. BUCK,
For Plaintiff.

And said plaintiff as to the said second, fourth, fifth, and sixth pleas of the said defendant by him above pleaded, saith the same,

and the matters and things therein contained, in the manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, said plaintiff, from having or maintaining his aforesaid action thereof against him said defendant, and that he, said plaintiff, is not bound by the law of the land to answer the same, and this he, said plaintiff, is ready to verify, wherefore he prays judgment, &c.

MARSHALL & MILLER, and
C. L. & R. S. BUCK,
For Plaintiff.

And defendants comes and joins issue, &c., and says the pleas above pleaded are sufficient in law to bar and preclude the plaintiff, and this he prays the court to inquire, &c.

A. BURWELL.

And on the 12th day of November, A. D. 1859, the following order was entered upon the minutes of this court, to wit:

JOHN W. RUSSELL, use, &c.
v. } 122.
RICHARD CHRISTMAS.

Plaintiff's demurrer to the 2d, 4th, 5th, and 6th pleas argued and submitted.

And on the 15th day of November, A. D. 1859, the following order was entered upon the minutes of this court, to wit:

JOHN W. RUSSELL, use &c.,
v. } 122.
RICHARD CHRISTMAS.

Plaintiff's demurrer to defendant's 2d, 4th, 5th, and 6th pleas being argued, and mature deliberation being thereupon had, it is ordered by the court that the demurrer be sustained.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the twenty-fifth day of May in the year of our Lord one thousand eight hundred and sixty, until which time this cause was legally continued, came the parties aforesaid by their respective attorneys, and the said plaintiff, by their attorneys aforesaid, bring into court the record of the recovery aforesaid, by him in pleading above alleged, and thereupon all and singular the premises as to the said plea of the said defendant that there is not any such record of the recovery aforesaid, being seen, and by the court now more fully understood, and mature deliberation being thereon had, for that it appears to the court now here, that there is such record of recovery as aforesaid, as the said plaintiff, by his said replication to the plea above hath alleged, and as to the issues aforesaid above joined to be tried by the country, a jury being called, came to wit, &c., J. L.

Morris, James McRae, W. D. King, E. Houston, W. F. Gartley, J. H. Burrus, E. Jones, N. Morrison, M. C. Cheatham, C. Tilly, W. H. Simmons, and J. P. O'Reilly, who being impanelled, tried, and sworn the truth to speak concerning the matters within contained.

Bill of Exceptions.

J. W. RUSSELL
v.
R. CHRISTMAS. } May Term, 1860.

Be it remembered that this case came on to be tried before the Hon. S. J. Gholson, judge, &c., and a jury; and the plaintiff offered to read in support of the action the transcript of the court of Jefferson Circuit Court, which, with the certificates, is in the words and figures following, to wit:

Transcript from Jefferson County Circuit Court, Kentucky.

State of Kentucky.

Pleas before the Hon. P. B. Muir, sole judge of the Jefferson Circuit Court, held at the court-house, in the city of Louisville, on the 31st day of March, 1859.

JOHN W. RUSSELL, plaintiffs,
against
W. A. WILSON, R. (alias) RICHARD CHRISTMAS,
and H. & T. H. CHRISTMAS, defendants. } On Petition.

Be it remembered, that heretofore, to wit, on the 5th day of September, 1853, came the plaintiff, by his attorney, and filed his petition herein, which is as follows, to wit:

State of Kentucky, Jefferson Circuit Court, *sct.*

JOHN W. RUSSELL, plaintiff,
against
W. A. WILSON, R. alias (*alias*) RICHARD CHRISTMAS,
and H. & T. H. CHRISTMAS, defendants. } Petition ordinary.

The plaintiff, John W. Russell, says that the defendants, on the 10th day of March, 1840, executed their promissory note to Churchill Samuel, or order, for six thousand four hundred and twenty $\frac{42}{100}$ dollars, payable on the first day of March thereafter; which note was transferred and assigned by said Samuel to plaintiff, by written indorsement thereon. No part of said note has been paid, but it is yet due and owing plaintiff. He says said note is now in the hands of N. D. Coleman, Esq., of the city of Vicksburg, and will be procured and filed in due time.

He prays judgment for the amount of said debt, and other proper relief.

JOHN W. RUSSELL,
By BARRETT & WOOD,
Attorneys.

State of Kentucky, Jefferson County, *sct.*, *sct.*

John W. Russell says the statements of the foregoing petition are true.

JOHN W. RUSSELL.

Subscribed and sworn to by John W. Russell, before the undersigned, this 5th day of September, 1853.

WM. T. BARRET,
N. P. J. C.

VICKSBURG, March 10, 1840.

Note, $6420\frac{42}{100}$.

On the first day of March next, we jointly and severally promise to pay to Churchill Samuel, or order, six thousand four hundred and twenty $\frac{42}{100}$ dollars, at the Merchants' Bank, in the city of New Orleans, without defalcation, for value received.

W. A. WILSON,
R. CHRISTMAS,
H. & T. H. CHRISTMAS.

Indorsed:

CHURCHILL SAMUEL,
JOHN W. RUSSELL.

Ne varietur, in conformity with an act of mortgage passed before me this day. New Orleans, March 20, 1840.

W. CHRISTY,
Notary Public.

Whereupon the following summons issued, to wit:

The Commonwealth of Kentucky, to the Sheriff of Jefferson County, greeting:

You are commanded to summon W. A. Wilson, R. alias Richard Christmas and H. & T. H. Christmas, to answer, on the first day of the next November term of Jefferson Circuit Court, a petition filed against them in said court by John W. Russell; and warn them that, upon their failure to answer, the petition will be taken for confessed, or they will be proceeded against for contempt; and you will make due return of this summons, on the first day of the next November term of said court.

Witness Henry J. Lyons, clerk of said court, this 5th day of September, 1853.

HENRY J. LYONS.

Upon which the sheriff made this return:

Came to hand September 6, 1853. Executed, and copy delivered to Richard Christmas same day. Other parties not found.

WM. A. COCKE, D. S.

CHARLES QUIREY, S. J. C.

The following is the answer of R. Christmas, filed in the court June 3d, 1854, to wit:

R. Christmas' Answer.

State of Kentucky, Jefferson Circuit Court.

JOHN W. RUSSELL, plaintiff,
against
W. A. WILSON, R. CHRISTMAS, &c., defendants.
} Answer of Richard Christmas.

The defendant Richard Christmas says:

1. The writing sued on is not his act and deed.

2. The contract sued on was made in the State of Mississippi, where the defendant then, at the date of said writing, resided, and has ever since resided. By the laws of the said State of Mississippi, the cause of action by said contract was and is barred by the lapse of six years from the time the cause of action accrued, without suit thereon; and said six years expired on the 1st day of March, A.D. 1847, in said State of Mississippi, and said cause of action was then entirely barred by the laws of said State.

At the time this suit was commenced the defendant was on a temporary visit to the State of Kentucky, and still continued to reside in the State of Mississippi.

3. The writing if sued on, if executed at all, was executed, as and for the obligation of W. A. Wilson, as the principal debtor, and the other parties intended to be bound thereon were to be bound as, and were only parties as sureties for the said Wilson; and seven years have fully elapsed without suit after the cause of action accrued on said writing now sued on, and the present cause of action did not accrue within seven years next before this suit was instituted.

4. On the 23d February, A.D. 1841, in the Commercial Court of New Orleans, in the State of Louisiana, the plaintiff, with the payee Samuel and others, attached the steamboat Rodolph, belonging to said Wilson, then and at the time of executing the note sued on, which was given on account of said boat, and caused the same to be sold for

$3100, at 3, 6, and 9 months from the 12 April, 1841, when she was sold to the plaintiff.

The defendant further avers that the said attachment was wrongfully sued out by said plaintiff, and by his wrongful and unjust act the said steamboat was sacrificed; that she was then worth $10,000, and that sum could have been procured for her by said Wilson, but for the wrongful proceeding of said plaintiff.

This defendant files herewith, as Exhibit No. 1, as a part hereof, the record and proceedings before stated.

Afterwards, on the 13 May, 1841, the same plaintiff, on the same note, attached the interest of the said Wilson in the proceeds of said sale, as appears by a copy of the record thereof in said court, herewith filed as Exhibit No. 2, made a part hereof.

5. The plaintiff is not the owner of the beneficial interest in said note; he assigned the note to Thomas N. Lindsay, Jacob Swigert, and E. H. Watson, or some of them, and does not, and did not at the time of bringing this suit, own the same.

BODLEY & LOCKE,
Attorneys.

State of Mississippi, City of Vicksburg, *sct.*

The defendant Richard Christmas makes oath that he believes the statements of the foregoing answer to be true.

R. CHRISTMAS.

Sworn to and subscribed by R. Christmas, before me, this 4th day of April, 1854.

L. S. HOUGHTON,
Commissioner.

The following are the Exhibits Nos. 1 & 2 referred to, and filed with the foregoing answer of Richard Christmas, to wit:

Exhibit No. 1.

State of Louisiana, Commercial Court of New Orleans, No. 3631.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

Affidavits for Writs of Attachment and Sequestration, filed February 23d, 1841.

JOHN W. RUSSELL, CHURCHILL SAMUEL, —— LINDSAY, PHILIP SWIGERT, and EDWARD WATSON,
v.
W. A. WILSON.

John Wilson Russell being sworn, deposes that he is one of the said

plaintiffs, and that he is the duly authorized agent herein of Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, who are the other plaintiffs, and who are all absent from this State. That W. A. Wilson is justly indebted to deponent Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, in the full sum of six thousand four hundred and twenty and $\frac{42}{100}$ dollars, which will become due and payable on the fourth day of March, 1841. That said W. A. Wilson resides permanently out of this State. That said W. A. Wilson is about to remove his property out of the State of Louisiana before said debt becomes due. That for the payment of said debt, deponent Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, have a mortgage and privilege upon the steamer Rodolph, which boat is now in the possession of said W. A. Wilson, within the jurisdiction of this court, and which boat Churchill Samuel, Lindsay, Philip Sweigert, and Edward Watson, fear that said W. A. Wilson will part with during the pending of this suit.

JOHN W. RUSSELL.

Sworn to and subscribed before me, this 23d February, 1841.

JOHN E. HOLLAND,
Deputy Clerk.

Orders for Attachment and Sequestration written upon said Affidavit.

Let a writ of attachment issue in this case according to law, on plaintiffs giving bond in the sum of fifteen thousand dollars, with Ogden and Southgate as sureties, conditioned as the law directs.

JOHN E. HOLLAND,
Deputy Clerk.

NEW ORLEANS, February 23d, 1841.

Let a writ of sequestration issue in this case on plaintiffs giving bond in the sum of fifteen thousand dollars, with Ogden and Southgate as sureties, conditioned according to law.

JOHN E. HOLLAND,
Deputy Clerk.

NEW ORLEANS, 23d February, 1841.

Attachment and Sequestration Bonds, annexed to said Affidavit.

Know all men by these presents, that we, John W. Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, and Ogden and Southgate, of the city of New Orleans and State of Louisiana, are held and firmly bound unto W. A. Wilson in the sum of fifteen thousand dollars, lawful money of the United States of *of* America, to be paid to said W. A. Wilson, his heirs, executors, administrators, and assigns, for which payment well and truly to be

made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 23d day of February, in the year of our Lord 1841, whereas John W. Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, have this day presented a petition to the Honorable, the Commercial Court of New Orleans, praying a writ of attachment against W. A. Wilson for the sum of $\$6420\frac{42}{100}$ dollars.

Now the condition of the above obligation is, that we, the above bound John W. Russell and his said co-obligors, and Ogden and Southgate, will well and truly pay to the said W. A. Wilson, the defendant in said attachment, all such damages as he may recover against us in case it should be decided that the attachment was wrongfully obtained.

JOHN W. RUSSELL, [L. S.]
For myself and as agent of Churchill Samuel, Lindsay, P. Swigert, and Edward Watson.
p.p. OGDEN & SOUTHGATE.
L. C. OGDEN, [L. S.]
Attorney.

Know all men by these presents, that we, John W. Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, and Ogden and Southgate, of the city of New Orleans and State of Louisiana, are held and firmly bound to W. A. Wilson in the sum of fifteen thousand dollars, lawful money of the United States of America, to be paid to the said W. A. Wlson, his heirs, executors, administrators, and assigns, for which payment well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 23d of February, in the year of our Lord 1841.

Whereas, John W. Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, have this day presented a petition to the Honorable the Commercial Court of New Orleans, praying a writ of sequestration against W. A. Wilson, for the sum of $\$6420\frac{42}{100}$.

Now the condition of the above obligation is, that we the above bound John W. Russell, and his said co-obligors, and Ogden and Southgate, will well and truly pay to the said W. A. Wilson, the defendant in said sequestration, all such damages as he may recover against us, in case it should be decided that the sequestration was wrongfully obtained.

JOHN W. RUSSELL, [L. S.]
For myself and as agent of Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson.
p. OGDEN & SOUTHGATE,
OGDEN, [L. S.]
Attorney.

Writ of Attachment.

The State of Louisiana, Commercial Court of New Orleans.

To the Sheriff of the Parish of Orleans, greeting:

Whereas due proof has been made before the Commercial Court of New Orleans, by John W. Russell, that W. A. Wilson is indebted to him, and Churchill Samuel, Lindsay, Ph. Swigert, and Ed. Wilson, in the sum of six thousand four hundred and twenty $\frac{42}{100}$ dollars, and that the said defendant resides permanently out of the State of Louisiana. Now, therefore, you are commanded, in the name of the State of Louisiana and of the Commercial Court of New Orleans, to seize and attach according to law, and take into your possession, the goods and chattels, lands and tenements, rights and moneys, effects and credits of the said defendants, if any you find in said parish, to the amount of what will suffice to discharge the said debt and costs of suit, and that you give notice of this proceeding by leaving a copy thereof, in the French and English languages, at the last place of abode of the said defendant, if in said parish, and causing a true copy thereof to be affixed at the door of the parish church of said parish, and make a return thereof of this writ, and indorse thereon the manner in which you have executed it before our court, on or before the second Monday of April, in the year of our Lord 1841.

Clerk's office, this 23d day of February, 1841.

JOHN E. HOLLAND,
Deputy Clerk.

Sheriff's Return of said Writ.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

Received 23d February, 1841, and attached, and took into my possession the steamboat Rodolph, her machinery, books, papers, iron chest, &c., and also served petition and citation on John W. Bell, Ward, Moffit & Co., Peyroux, Arcevel & Co., W. S. Brown, Zeatman & Co., Kirkman, Abernathy & Hanna, Baily, Beck & Co., T. B. Smith, Halsey & Bell, Pinckard, Huntingden & Co., Bradener, Williams & Co., Franklin & Henderson, S. S. Cobb & Co., J. R. Conner, A. Ledoux & Co., Minter, Chrisholm & Co., N. & J. Dick & Co., Buckner, Stanton & Co., and Armour, Lake & Co., garnishees, and attached in their hands the goods and chattels, lands and tenements, moneys, effects, or property of any kind, which they might have in their possession, or under their control, belonging to the defendant, to an amount sufficient to satisfy this writ, and the defendant as herein stated residing out of the State of Louisiana, I posted citation and attachment to the door of the church of St. Louis of Or-

leans, in New Orleans, and to that of the room in which this honorable court is held, and executed this writ in all things as the law directs. No other property found.

Returned 4th March, 1841.

M. CURYOT,
Acting Sheriff.

Writ of Sequestration.

Commercial Court of New Orleans.

The State of Louisiana to the Sheriff of the Parish of Orleans, greeting.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

You are hereby commanded, in the name of the State of Louisiana, and of the Commercial Court of New Orleans, to sequester and take into your possession, the steamboat Rodolph, her tackle, apparel, and furniture, now in the possession of defendant, and safely to keep the same subject to the further order of this court, and what you do in the premises you make return thereof, together with this writ, to our said court, on or before the 2d Monday of April next.

Witness, the Honorable Charles Watts, judge of our said court, this 23d day of February, in the year of our Lord, one thousand eight hundred and forty-one, and in the 65th year of the independence of the United States.

JOHN E. HOLLAND,
Deputy Clerk.

Sheriff's Return.

Received 23d February, 1841, and sequestered and took into my possession the steamboat Rodolph, her machinery, &c. Returned 4th March, 1841.

M. CRUZAT,
Acting Sheriff.

Petition and Interrogatories to Garnishees annexed. Filed February 24th, 1841.

To the honorable the judge of the Commercial Court of New Orleans:

The petition of John Wilson Russell, Churchill Samuel, Thomas Lindsay, Philip Swigert, and Edmund Watson, who all reside in Frankfort, in the State of Kentucky, respectfully shows, that W. A. Wilson, who resides in the State of Mississippi, is justly and truly indebted unto petitioners in the full sum of six thousand four hun-

dred and twenty dollars and forty-two cents, with dollars costs of protest, and interest at the rate of five per centum per annum from the 4th day of March, 1841, for this, to wit, that petitioners are holders and owners of a certain promissory note for the sum of six thousand four hundred and twenty dollars and forty-two cents, drawn by W. A. Wilson, R. Christmas, and H. & P. H. Christmas, jointly and severally, to the order of and indorsed by one of your petitioners, Churchill Samuel, dated at Vicksburg, on the 10th day of March, 1840, and payable on the first day of March then next, at the Merchants' bank, in the city of New Orleans, without defalcation, for value received, the payment of which note was secured by special mortgage made by said W. A. Wilson, by act passed before William Christy, notary public, on the 20th March, 1840, upon the steamer Rodolph, her tackle and apparel, which mortgage was duly recorded on the enrolment of said boat.

That although the said note was made payable solely to said Churchill Samuel, yet your petitioners, then and now, were all interested in said note, and said mortgage inures to the benefit of all of said petitioners, who are owners of said note, all of which will more fully appear by reference to the said note, and the authentic copy of the act of said mortgage thereof, which are hereunto annexed for reference on said note is made a part hereof. Petitioners further allege, that the said W. A. Wilson, although thereunto amicably requested, refuses to pay the amount for which he is indebted as aforesaid, and he has property within the jurisdiction of this court; that petitioners have the right of mortgage upon said steamer, her tackle, and apparel, for the payment of said note; that the said boat is now in the possession of said W. A. Wilson.

Petitioners therefore pray, that the bonds and affidavit already filed, being considered as part hereof, that the writ of attachment herein issued in favor of petitioners and against W. A. Wilson, for the sum of $\$6420\frac{42}{100}$ dollars, and the writ of sequestration of said steamer Rodolph for the said sum of $6420\frac{42}{100}$ dollars, be maintained, and that said W. A. Wilson, who is temporarily in New Orleans, be cited to appear and answer this petition, and that after due proceedings he be condemned to pay the petitioners the aforesaid sum of six thousand four hundred and twenty dollars and forty-two cents, with interest as aforesaid from the date aforesaid, with mortgage and privilege in preference to all other persons for the payment of said sum of money upon the property attached, and on the steamboat Rodolph already sequestered, and costs of suit; and petitioners ask for all general and equitable relief.

Petitioners further pray that the following named persons and commercial firms, all residing in New Orleans, be made garnishees herein, and be ordered to answer separately and individually under oath within the legal delay the following interrogatories, made part of this petition, and that said garnishees respectively be condemned

to pay to petitioners the said sum of $6420 and $\frac{42}{100}$ dollars, with interest and costs, as above set forth, viz.: Yeatman & Co., Kirkman, Abernathy & Hanna, Bayley, Beck & Co., J. B. Smith, Halsey & Bell, Prickard, Huntingden & Co., Brander, Williams & Co., Franklin & Henderson, S. S. Cobb & Co., J. R. Conner, A. Ledoux & Co., Minter, Chisholm & Co., N. & J. Dick & Co., Buckner, Stanton & Co., Armour, Lake & Co., J. M. Bell, Ward, Moffatt & Co., Peyroux, Ariel & Co., W. S. Brown, Peyton & Smith.

Interrogatories, to be answered under oath, within the legal delay, by all, each, and every one of the above-named garnishees, separately and individually, as follows, viz.:

I. Were you, either as a commercial firm or in your individual capacities, at the time of service on you of process of attachment in this case, or have you, either as a commercial firm or in your individual capacities, been since indebted to W. A. Wilson, master and owner of the steamer Rodolph, in any sum of money, or other thing? If yea, what is the amount of said debt? Does the sum amount to nine thousand dollars?

II. Had you, either as a commercial firm or in your individual capacities, at the time of service on you of process of attachment in this case, or have you had since, either as a commercial firm or in your individual capacities, any property, rights, credits, or effects belonging to W. A. Wilson, master and owner of the steamboat Rodolph? If yea, what is the amount and nature of the same? Does the same amount to nine thousand dollars?

PEYTON & SMITH,
Attorneys of Plaintiff.

Indorsement on said petition: "Received the note and mortgage 11th May, 1841. Peyton & Smith."

Citation to Defendant.

State of Louisiana, Commercial Court of New Orleans.

JOHN M. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

Mr. W. A. Wilson, residing in the State of Mississippi, but now temporarily in New Orleans.

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the Commercial Court of New Orleans, in ten days after service hereof.

Witness the honorable Charles Watts, judge of the said court, the 25th day of February, in the year of our Lord 1841.

JOHN E. HOLLAND,
Deputy Clerk.

Sheriff's Return.

Received 25th February, and on the 26th, served petition and citation on the defendant in person.

Returned, 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Yateman & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN M. RUSSELL and others
v.
W. A. WILSON.

The State of Louisiana to Yateman & Co., garnishees.

You are hereby cited to declare on oath what property belonging to the defendant in this case, you have in your, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogations annexed to the petition of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 26th, served petition and citation on Yateman & Co., garnishees, through Yateman, one of the firm, in person. Returned 26th February, 1841.

M. CRURAT,
Acting Sheriff.

Citation to Kirkman, A., & Hanna, Garnishees.

State of Louisiana, Commercial Bank of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON.
No. 3631.

The State of Louisiana to Messrs. Kirkman, Abernathy & Hanna, garnishees.

You are hereby cited to declare on oath what property belonging

to the defendant in this case, you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 26th, served petition and citation on Kirkham, Abernathy & Hanna, garnishees, through Mr. Kirkman, one of the firm, in person. Returned 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Bayley, Beck & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

The State of Louisiana to Yeatman & Co., garnishees.

You are hereby cited to declare, on oath, what property belonging to the defendant in this case, you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiff, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 26th, served petition and citation on Bayley, Beck & Co., garnishees, through Mr. Beck, one of the firm, in person.

Returned the 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to J. B. Smith, Garnishee.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to J. B. Smith, garnishee.

You are hereby cited to declare, on oath, what property belonging to the defendant in this case, you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompaaies this citation, within ten days after service thereof, otherwise judgment will be entered against you for the amount claimed by plaintiff, with interest and costs.

Witness the honorable Charles Watts, judge of said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841; and on the 27th, served petition and citation on J. B. Smith, garnishee, in person. Returned March 6th, 1841.

HENRY GENERELLY,
Deputy Acting Sheriff.

Citation to Halsey & Bell, Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

State of Louisiana, to Halsey & Bell, garnishees:

You are hereby cited to declare on oath what property, belonging to defendant in this case, you have in your possession, or in what sum you are indebted to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after service thereof, otherwise judgment will be entered against you for the amount claimed by plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Received 25th day of February, 1841; and on the 26th, served petition and citation on Halsey & Bell, garnishees, through Mr. Halsey, one of the firm, in person. Returned 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Pinckard, Huntingdon & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana, to Pinckard, Huntingdon & Co., garnishees:

You are hereby cited to declare on oath what property, belonging to the defendant in this case, you have in your possession, or in what sum you are indebted to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841; and on the 26th, served petition and citation on Pinckard, Huntingdon & Co., through Mr. Huntingdon, one of the above firm, in person. Returned 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Brander, Williams & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana, to Brander, Williams & Co., garnishees:

You are hereby cited to declare on oath what property belonging to the defendant in this case, you have in your possession, or in

what sum you are indebted to said defendant; and also to answer, in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841; and on the 26th, served petition and citation on Brander, Williams & Co., garnishees, through Mr. Brander, one of the firm, in person. Returned 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Franklin & Anderson, Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana, to Franklin & Anderson, garnishees:

You are hereby cited to declare on oath what property belonging to the defendant in this case, you have in your possession, or in what sum you are indebted to said defendant; and also, to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841; and on the 26th, served petition and citation on Franklin & Henderson, garnishees, through Mr. Franklin, one of the firm, in person. Returned 26th February, 1841.

M. CROZAT,
Acting Sheriff.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana, to S. S. Cobb & Co., garnishees:

You are hereby cited to declare on oath what property belonging to the defendant you have in your possession, or in what sum you are indebted to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841; and on the 26th, served petition and citation on S. S. Cobb & Co., garnishees, by leaving the same at their office, with D. Merritt, one of the firm, in person. Returned 26th February, 1841.

M. CROUZAT,
Acting Sheriff.

Citation to J. R. Conner, Garnishee.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL, and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to J. R. Conner, garnishee:

You are hereby cited to declare on oath, what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to this petition, of which a copy accompanies this citation, within ten days of the service thereof; otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and cost.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 26th served petition and citation on J. R. Conner, garnishee, in person.
Returned 26th February, 1841.

M. CROZAT,
Acting Sheriff.

Citation to Messrs. A. Ledoux & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL, and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Messrs. A. Ledoux & Co., garnishees:
You are hereby cited to declare on oath, what property belonging to the defendant, and also to answer in writing, under oath, the interrogatories annexed to this petition, of which a copy accompanies this citation, within ten days after service thereof; otherwise judgment will be entered against you for the amount claimed by plaintiffs, with interest and costs.
Witness the honorable Charles Watts, of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 25th served petition and citation on A. Ledoux & Co., by leaving the same at their counting-house, in Canal street, with Mr. Murry, their clerk, a free person above the age of fourteen years.
Returned 26th February, 1841.

M. CROZAT,
Acting Sheriff.

Citation to Minter, Chisolm & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL, and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Messrs. Minter, Chisolm & Co., garnishees:
You are hereby cited to declare on oath, what property belonging to the defendant in this case you have possession, or in what sum you are indebted to said defendant, and also to answer in writing, under

oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof; otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th served petition and citation on Minter, Chisolm & Co., garnishees, through Mr. Minter, one of the firm, in person.

Returned 26th February, 1841.

M. CROUZAT,
Acting Sheriff.

Citation to Messrs. N. & J. Dick & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to N. & J. Dick & Co., garnishees:

You are hereby cited to declare on oath what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after service thereof; otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 25th February, 1841, and on the 26th served petition and citation on N. & J. Dick & Co., garnishees, through W. J. McLean, one of the firm, in person.

Returned 26th February, 1841.

M. CROZAT,
Acting Sheriff.

Citation to Messrs. Buckner, Stanton & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Messrs. Buckner, Stanton & Co., garnishees:

You are hereby cited to declare on oath, what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after service thereof; otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th served petition and citation on Buckner, Stanton & Co., garnishees, through H. S. Buckner, one of the firm, in person.

Returned 26th February, 1841.

M. CROZAT,
Acting Sheriff.

Citation to Armour, Lake & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Messrs. Armour, Lake & Co., garnishees:

You are cited to declare on oath, what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant, and also to answer in writing, under oath, the interrogatories annexed to this petition, of which a copy accompanies this citation, within ten days after the service thereof; otherwise judgment will be entered against you for the sum claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th served petition and citation on Armour, Lake & Co., garnishees, through Mr. Armour, one of the firm, in person.

M. CROUZAT,
Acting Sheriff.

Citation to J. M. Bell, Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to J. M. Bell, garnishees.

You are hereby cited to declare on oath what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant. And also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiff, with interest and costs.

Witness the Honorable Charles Watts, judge of said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and served, on the 26th February, petition and citation, on J. W. Bell, garnishee, in person. Retd. 26th Feby., 1841.

M. CROZAT,
Acting Sheriff.

Citation to Ward, Moffatt & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Ward, Moffatt & Co., garnishees.

You are hereby cited to declare on oath what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to the defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, of which

a copy accompanies this citation, within ten days after service thereof, otherwise judgment will be entered against you for the amount claimed by plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of said court, this 24th day of February, in the year of our Lord 1841.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th served petition and citation on Ward, Moffatt & Co., through Mr. Ward, one of the firm, in person. Retd. 26th February, 1841.

M. CRUZAT,
Acting Sheriff.

Citation to Messrs. Peyroux, Arcueil & Co., Garnishees.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to Messrs. Peyroux, Arcueil & Co., garnishees.

You are hereby cited to declare on oath what property belonging to defendant in this case you have in your possession, or in what sum you are indebted to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, within ten days after service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiffs, with interest and costs.

Witness the honorable Charles Watts, judge of the said court, this 24th day of February, in the year of our Lord one thousand eight hundred and forty-one.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th February served petition and citation on Peyroux, Arcueil & Co., by leaving the same at their counting-house, on Levee street, near Custom House street, with J. Sell, their clerk, a free person, above the age of fourteen years. Retd. 26th February, 1841.

M. CROUZAT,
Acting Sheriff.

Citation to W. S. Brown, Garnishee.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The State of Louisiana to W. S. Brown, garnishee.

You are hereby cited to declare on oath what property belonging to the defendant in this case you have in your possession, and in what sum you are indebted to said defendant; and also to answer in writing, under oath, the interrogatories annexed to the petition, a copy of which accompanies this citation, within ten days after the service thereof, otherwise judgment will be entered against you for the amount claimed by the plaintiff, with interest and costs.

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received, 25th February, 1841, and on the 26th served the petition and citation on W. S. Brown, garnishee, in person. Retd. 26th February, 1841.

M. CROUZAT,
Acting Sheriff.

Answer of Kirkman, A. & Hanna, Garnishees.

Filed Feb. 26th, 1841.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. S. WILSON. } No. 3631.

Personally appeared James J. Hanna, one of the above commercial firm of Kirkman, Abernathy & Hanna, who being duly sworn, deposes and saith, in answer to the garnishment served on them in the above suit, that they individually, or as a firm, have no property in their possession belonging to the defendant, nor had they at the time of service of said attachment or garnishment; that they individually, or as a firm, do not owe the defendant anything, nor did they at the time of the service of said attachment, nor do they know of any property, effects, or credits, in the possession of any other person, belonging to said defendant, and that they do not know him.

JAMES J. HANNA.

Sworn and subscribed before me, this 26th February, 1841.

R. GARDINER,
Deputy Clerk.

Answer of A. Ledoux & Co., Garnishees.

Filed Feby. 26th, 1841.

In answer to the petition of John W. Russell *v.* W. A. Wilson and others, we say that we never had and have no property belonging to said Wilson, nor of the steamboat Rodolph; that we have no acquaintance with the Wilson *eather*, as correspondent, personal or otherwise; that we never had and have no business with the steamboat Rodolph.

New Orleans, 26th February, 1841.

A. LEDOUX & CO.

Sworn and subscribed before me, this 26th February, 1841.

R. GARDINER,
Deputy Clerk.

Answer of N. & J. Dick & Co., Garnishees.

Filed February 27th, 1841.

JOHN W. RUSSELL et al.
v.
W. A. WILSON. } Commercial Court.

Wm. Jas. McLean, partner in the house of N. & J. Dick & Co., garnisheed in this case, answers the interrogatories proposed, as follows:

To 1st interrogatory. Neither the firm of N. & J. Dick & Co., or any individual thereof, are owing, or ever indebted in any way to defendant since service of attachment in this case.

To 2d int. The firm of N. & J. Dick & Co., or any of its members, had not at time of service of attachment in this case, or since then, any property, rights, credits, or effects belonging to defendant.

WM. JAS. McLEAN.

Sworn and subscribed before me this 26th February, 1841.

J. E. HOLLAND,
Deputy Clerk.

Answer of Halsey & Bell, Garnishees.

Filed February 27th, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans.

The undersigned, one of the members of the commercial firm of Halsey & Bell, of this city, having examined all the papers served

upon the said Halsey & Bell, in the matter of John W. Russell and others *v.* W. A. Wilson, master and owner of the steamer Rodolph, deposeth and saith, in answer to the interrogatories therein contained, as follows, viz.:

Answer to interrogatory 1st. At the time of service of the aforesaid paper, neither Halsey & Bell, as a commercial firm, or in their individual capacity, were indebted to W. A. Wilson, master and owner of the steamer Rodolph, in any sum or sums of money, or other things, nor have they been subsequently indebted to said Wilson.

Answer to interrogatory 2d. Neither Halsey & Bell, as a commercial firm, or either of them, in their individual capacities, had, in their or either of their possession, at the time of service of the aforesaid papers, nor have they subsequently had, nor have they at this time, either as a commercial firm, or in their individual capacities, any property, rights, credits, or effects, belonging to W. A. Wilson, master and owner of the steamboat Rodolph.

HALSEY & BELL,
By JOHN M. BELL.

Sworn and subscribed this 27th February, 1841, before me.

PE. DEVERGES,
Deputy Clerk.

Answer of William S. Brown, Garnishee.

Filed February 27th, 1841.

To the Honorable the Judge of the Commercial Court of the City of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

William S. Brown, garnishee in this case, for answer to the interrogatories to him propounded,

To the 1st interrogatory saith: That he was, at the time of the service of the said interrogatories, indebted to the said W. A. Wilson, owner of the steamboat Rodolph, in the sum of five dollars $\frac{50}{100}$, for freight on said boat; and to the remainder of the interrogatory he answers, No.

To the 2d interrogatory, except as above answered, No.

WILLIAM S. BROWN.

Sworn to and subscribed this 27th February, 1841, before me.

ED. GARDERE,
Deputy Clerk.

Answer of Kirkman, Abernathy & Hanna, Garnishees.

Filed March 2d, 1841.

State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

Personally appeared before me, James Kirkman, one of the firm of Kirkman, Abernathy & Hanna, who, being duly sworn, answers and says to the garnishment served upon him in the above suit.

To the 1st interrogatory. Neither individually, nor as a commercial firm, does he owe W. A. Wilson, now, or at the time the garnishment was served.

To the 2d interrogatory. Neither individually, nor as a commercial firm, did he have effects or property of W. A. Wilson, at the time of the service of the process of attachment, nor has he at this time.

He further states that John T. Abernathy, one of the firm, is a resident of Alabama, and is not in the city at this time.

JOHN KIRKMAN.

NEW ORLEANS, February 27th, 1840.

Answer of Bayley, Beck & Co., Garnishees.

Filed March, 2d 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

The answer of Thomas P. Bayley, of the firm of Bayley, Beck & Co., to interrogatories filed in this case.

To the 1st interrogatory. No. I am neither individually, nor as a member of a commercial firm, indebted to W. A. Wilson, either at the service of the attachment, or since.

To the 2d interrogatory. No. In no capacity have I or had I any property whatever belonging to him; and for further answer this deponent says, that Jno. G. James, a member of the firm of Bayley, Beck & Co., resides in Rodney, Mississippi, and that he has not been in New Orleans since the service of this attachment, and that it is impossible for either of the partners here to answer as to any individual transaction the said James may have had with defendant.

THOMAS P. BAYLEY.

Sworn and subscribed before me this 2d March, 1841.

O. P. JACKSON,
Judge.

Answer of Bayley, Beck & Co., Garnishees.

Filed March 2d, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } Commercial Court.

The answers of Richard Beck, of the firm of Bayley, Beck & Co., to interrogatories filed in this case.

To the 1st interrogatory. No. I am neither individually, nor as a member of a commercial firm, indebted to W. A. Wilson, either at the service of the attachment, or since.

To the 2d interrogatory. No. In no capacity have I or had I property belonging to him; and for further answer this respondent says, that John G. James, a member of the commercial firm of Bayley, Beck & Co., resides in Rodney, Mississippi, that he has not been in New Orleans since the service of this attachment, and that it is impossible for either of the partners here to answer as to any individual transaction the said James may have had with defendant.

RICHARD BECK.

Sworn and subscribed before me this 2d March, 1841.

O. P. JACKSON,
Judge.

Rule entered March 2d, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

On motion on C. M. Jones, of counsel for defendant, it is ordered by the court that plaintiffs show cause, on Saturday, the 6th of March, 1841, at 10 A.M., why the attachment and sequestration in this case should not be set aside, and the suit dismissed on the following grounds:

1st. That good and sufficient security, as required by law, has not been given.

2d. That the said suit is premature to the note sued on not being due.

3d. That the affidavit is not true, the defendant having no intention of removing his property out of the State, except in the regular course of his business, and that the property attached would have been in the State at the time the note sued on fell due.

4th. That the whole proceeding of plaintiffs are illegal and oppressive, the being no necessity of both, an attachment and sequestration.

Sheriff's Return.

Served, March 2d, 1841, a copy of the within rule on Peyton & Smith, by leaving the same at their office with J. Ad. Rogier.

R. SWAIN.

Answer of T. B. Smith, Garnishee.

Filed March 3d, 1841.

In answer to the interrogatories propounded to us in the annexed writ of attachment, where John Wilson Russell, Churchill Samuel, Thomas Lindsay, Philip Swigert, and Edward Wattson, are plaintiffs, and to W. A. Wilson, defendant, we reply (viz.), to 1st interrogatory: "Were you, either as a commercial firm or in your individual *capasities*, at the time of service on you of process of attachment in this case, or have you, either as a commercial firm or in your individual capacities, been since indebted to W. A. Wilson, master and owner, or other things? If you have, what is the amount and nature of said debt,—does the sum amount to nine thousand dollars?

Answer. We have neither been indebted, either in our individual capacities, nor as a firm, to W. A. Wilson, since writ of attachment was served upon us, nor to the steamer Rodolph, of which he was captain.

T. B. SMITH.

Sworn and subscribed, 3d March, 1841.

ED. GARDIER,
Deputy Clerk.

2d Interrogatory. Had you, either as a commercial firm or in your individual capacities, at the time of service on you of process of attachment in this case, or have you had since, either as a commercial firm or in your individual capacities, any property, rights, credits or effects, belonging to W. A. Wilson, master and owner of the steamer Rodolph?

If you what is the amount and nature of the same? Does the same amount to nine thousand dollars?

Answer to 2d interrogatory. We neither had, at the time of service of attachment, nor since, either in our individual capacities or as a firm, any property, rights, credits, or effects, belonging to W. A. Wilson, master and owner of the steamer Rodolph.

T. B. SMITH.

Sworn and subscribed, 3d March, 1841.

ED. GARDIER,
Deputy Clerk.

Answer of Minter, Chisholm & Co., Garnishees.

Filed March 3d, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

To the Honorable the Judge of the Commercical Court of New Orleans.

By the attachment served on us, as garnishees in this case, we are required to make oath to the following questions:

Were you, either as a commercial firm, or in individual capacities, at the time of service on you of process of attachment in this case, or have you, either in commercial firm or in your individual capacities, been since indebted to W. A. Wilson, master and owner of the steamer Rodolph, in any sum of money, or other thing? If yea, what is the amount and nature of said debt? Does the sum amount to nine thousand dollars?

Had you, in commercial firm, or in your individual capacity, any property, rights, credits or assets, belonging to W. A. Wilson, master and owner of the steamer Rodolph? If yea, what is the amount and nature of the same? Does the sum amount to nine thousand dollars?

To which interrogatories we, as partners of the firm of Minter, Chisholm & Co., and in our individual capacities, do say that we neither at the time of service of said attachment or since, have had any money or effects of any description, belonging to the said W. A. Wilson, master of steamer Rodolph, in our possession. In testimony whereof, we make oath before the undersigned, the 2d day of March, the year of our Lord 1841.

JAMES MINTER,
W. G. TUNSE,
Resident Partners.

Sworn to and subscribed before me, this 2d day of March, 1841.
TH. N. MORGAN,
Associate Judge.

Satisfactory.

PEYTON & SMITH.

Answer of Buckner, Stanton & Co., Garnishees.

Filed March 4, 1841.

JOHN W. RUSSELL et al.
v.
W. A. WILSON. } No. 3631.

Commercial Court.

Henry S. Buckner, one of the commercial firm of Buckner, Stanton & Co., comes now and for answer to the interrogatories propounded to him and his said firm, saith:

In answer to the first interrogatory. That he is the only resident partner of said firm, and the only one, from personal knowledge, competent to answer said interrogatories.

He says that neither at the time of the service of the interrogatories, or at any time subsequent, has he individually, or has his said firm, then, subsequently, or now, indebted to W. A. Wilson, or to the steamboat Rodolph.

To the second interrogatory. Answering for himself and his said firm, he saith, that neither he nor his said firm, at the time of the service of the interrogatories, or at any subsequent time, have had, nor have they now, any property, rights, credits or effects, belonging to W. A. Wilson, or to the master of owners of the steamboat Rodolph.

H. S. BUCKNER.

Sworn to and subscribed, this 4th March, 1841, before me.
ED. GADERE,
Clerk.

Answer of Conner, Garnishee.

Filed March 5th, 1841.

Commercial Court.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

Answer to 1st interrogatory within annexed. I was not indebted to W. A. Wilson, at the time of the process of attachment, in any amount or sum of money. I had been prior to the service of attachment indebted to Wilson, as captain steamer Rodolph, or owner, for freight and charges advanced on seven hundred and sixty-two bales of cotton, conveyed to me as agent of steamboat Wilmington, amounting per bale to twenty-three hundred and eighty-two $\frac{85}{100}$ dollars, but had paid over the amount before attachment was served.

Answer to 2d interrogatory. I had no effects of W. A. Wilson in my possession at the time garnishee was served on me, nor have I had since, nor do I know of any effects of his in the hands of others.

J. R. CONNER.

Sworn to and subscribed before me, this 5th March, 1841.

R. GARDERE,
Deputy Clerk.

Answer of Franklin & Henderson, Garnishees.

Filed March 6th, 1841.

Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

The answers of Franklin & Henderson, cited as garnishees in the above-named case, to the interrogatories propounded to them by the plaintiffs, states:

1st. To the first interrogatory they answer, as a commercial firm, and in their individual capacity, in the negative to each and every branch of said interrogatory.

2d. To the second interrogatory they also answer as a commercial firm, and in their individual capacities, to each and every branch of said interrogatory in the negative.

Stephen Franklin and John D. Henderson, the only members of the commercial firm of Franklin & Henderson (residing in this city), the above-named garnishees being sworn, depose that the foregoing answers are true.

S. FRANKLIN.
JOHN D. HENDERSON.

Sworn and subscribed 6th March, 1841.

TH. N. MORGAN,
Associate Judge of the City Court.

Answer of J. M. Bell, Garnishee.

Filed March 6th, 1841.

To the honorable the judge of the Commercial Court:

I am justly indebted to the steamboat Rodolph and owners, in the sum of thirty-seven dollars, and was indebted at the time of service of this attachment. I do not owe the said boat and owners anything more, nor did at the time of this attachment.

JOHN M. BELL.

Sworn to and subscribed this 6th March, 1841.

P. DEVERGES,
Deputy Clerk.

Satisfactory.

PEYTON & SMITH.

Answer of Pinckard, H. & Co., Garnishees.

Filed March 6th, 1841.

Commercial Court of New Orleans.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

The answer of G. W. Huntington, for himself and in behalf of Pinckard, Huntington & Co.:

1st. I am not indebted, either in my individual capacity, or as one of the firm of Pinckard, Huntington & Co., to W. A. Wilson, in any sum whatever, nor was I at the time of the service of this writ of garnishment.

2d. I have not, nor has the firm of Pinckard, Huntington & Co.

G. W. HUNTINGTON.

Sworn to and subscribed this 6th March, 1841, before me,

ED. GADERE,
Clerk.

Judgment on Rule.

Entered March 6th, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.
No. 3631.

The rule taken in this case, on the first (second) instant, to show cause this day why the attachment and sequestration in this case should not be set aside, and the suit dismissed, &c., came on this day for trial.

C. M. JONES,
For Plaintiff in rule.
PEYTON & SMITH,
For Defendant in rule.

After hearing pleadings and evidence, the court ordered that the rule be made absolute.

Yeatman & Co.

Answer of J. W. Coulan, Garnishee.

Filed March 8th, 1841.

In the Commercial Court.

JOHN W. RUSSELL and al.
v.
W. A. WILSON.

James W. Coulan, one of the firm of Yeatman & Co., answers on oath to the interrogatories propounded to his said firm in the above case, as follows:

To the first interrogatory. No.

To the second interrogatory. No.

J. W. COULAN.

Sworn and subscribed this 8th March, 1841, before me,

ED. GADERE,
Clerk.

Answer of Brander, W. & Co., Garnishees.

Filed March 9th, 1841.

The Commercial Court of New Orleans.

RUSSELL and others
v.
W. A. WILSON.

The answer of Brander, Williams & Co., by Hislop J. Brander, one of said firm, to the interrogation in this cause propounded:

1st. To the first interrogatory, he says: In my individual capacity, I am not, nor have I heretofore ever been indebted to said W. A. Wilson, as master and owner of the steamer Rodolph, nor in any other capacity, in any sum of money whatever; nor am I, as member of my firm, nor is my firm now, nor have I or they, heretofore been indebted to said defendant, individually or in the capacity aforesaid, except as follows: there were seven bales of cotton consigned to us by said boat; freight was demanded of us for the same; when we were about receiving said cotton, we objected to paying any freight, because the cotton was damaged; the boat delivered us the cotton, we simultaneously declaring that we would pay no freight, on account of said damage, which was more than the freight, and receiving the cotton under protest of our non-liability. What said claim for freight was, I do not know; it could not have been more, as I believe, than a dollar per bale, at the utmost. None of my firm are or have been individually indebted to said Wilson, individually nor in the afore cited capacity.

2d. To the second interrogatory, for himself, his firm, and the individuals of his firm, he answers No.

HESLOP G. BRANDER.

Sworn to and subscribed before me, March 9th, 1841.

JOHN E. HOLLAND,
Deputy Clerk.

Satisfactory for all the partners.

PEYTON & SMITH.

Answer of Cobb & Co., Garnishees.

Filed March 9th, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.

In answer to the first interrogatory, in the case of John W. Russell and others *v.* W. A. Wilson, we are indebted to W. A. Wilson, or the steamboat Rodolph, for the freight of one bale of cotton, and no more.

In answer to the second interrogatory, we answer that we have have nothing in our hands at the time, or previous to the service of the attachment in the above case.

SAMUEL S. COBB & CO.

NEW ORLEANS, 2d March, 1841.

2d March, 1841.

The above answers are satisfactory.

PEYTON & SMITH,
For Plaintiffs.

Petition of Appeal.

Filed March 9th, 1841.

JOHN W. RUSSELL and others
v.
W. A. WILSON.
Commercial Court.

The petition of John Wilson Russell, Churchill Samuel, Thomas Lindsay, Philip Swigert, and Edward Watson, respectfully shows:

That they are advised and believe there is error in the judgment of this court, setting aside the writs of sequestration and attachment herein issued.

That said judgment operates an irreparable injury to said plaintiffs, who are entitled to an appeal therefrom.

They pray, considering the annexed bond as part hereof, for an

order of appeal from said judgment to the Supreme Court, and they pray that said Wilson be cited in appeal, and for general relief.

PEYTON & SMITH.

Order for Appeal.

An appeal is allowed from the judgment setting aside the writ of sequestration issued in this case, returnable in the Supreme Court on the first Monday of April next, on the appellants giving bond, with good and solvent security, in the sum of one hundred dollars, conditioned as the law directs.

C. WATTS,
Judge.

New Orleans, 9th March, 1841.

Appeal Bond annexed to Petition of Appeal.

Know all men by these presents, that we, John Wilson Russell, Churchill Samuel, Thomas Lindsay, Philip Swigert, and Edward Watson, and Ogden and Southgate, are held and firmly bound unto W. A. Wilson, executors, administrators, and assigns, in the sum of one hundred dollars, for the payment whereof we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated, in the city of New Orleans, on this 9th day of March, in the year of our Lord one thousand eight hundred and forty-one.

Whereas, the above bound John Wilson Russell and his co-obligors have this day filed a petition of appeal from a certain interlocutory judgment rendered against them in the suit of John W. Russell et al. *v.* W. A. Wilson, in the Commercial Court of New Orleans, on the 9th day of March, 1841.

Now the condition of the above obligation is such, that the above bound John Wilson Russell, his co-obligors, shall prosecute their appeal, and shall satisfy whatever judgment may be rendered against them, or that the same shall be satisfied by the proceeds of the sale of their estate, real or personal, if they be cast in the appeal, otherwise that the said Ogden and Southgate, surety, shall be liable in their place.

JOHN WILSON RUSSELL,
CHURCHILL SAMUEL,
PHILIP SWIGERT,
EDWARD WATSON,
THOMAS LINDSAY,
By JOHN W. RUSSELL, [L. S.]
p.p. OGDEN and SOUTHGATE,
OGDEN, SOL'S. [L. S.]

Answer of Peyroux & Co., Garnishees.

Filed March 11th, 1841.

Answers of Peyroux, Arueil & Co., to interrogatories propounded in the case of John W. Russell and others *v.* W. A. Wilson. No. 3631. Commercial Court.

Answer 1. Nay.

Answer 2. Nay.

J. O. PEYROUX.

NEW ORLEANS, March 10, 1841.

Sworn to and subscribed before me, this 11th March, 1841.

O. P. JACKSON,
Judge.

Plaintiffs' Bill of Exceptions.

Filed March 12, 1841.

J. W. RUSSELL et al.
v.
W. A. WILSON. } Commercial Court.

Be it remembered, that on the trial of the rule to set aside the orders of sequestration and attachment in this case, the defendant offered the testimony, which is taken in writing, to the admissibility of which the said plaintiffs objected on the following grounds:

1st. There are no allegations in the rule and grounds to authorize the admission of the testimony.

2d. The said testimony is wholly illegal.

3d. It is irrelevant.

But the court overruled the objections and admitted said testimony, to which decision of the court the plaintiffs except, and pray that this their bill of exceptions be signed.

C. WATTS,
Judge.

Agreed to, and may be signed, *nunc pro tunc.*

C. M. JONES.

Rule to have the Property attached sold, and grounds.

Entered March 12th, 1841.

J. W. RUSSELL and others
v.
W. A. WILSON. } No. 3631.

On motion of Peyton and Smith, of counsel for said plaintiffs, it is ordered by the court that said defendant do show cause, on Wed-

nesday, 17th March, 1841, at 10 o'clock A.M. ,why the steamer Rodolph, herein attached, shall not be sold forthwith, on the ground that said boat is perishable property, and will deteriorate during the pending of this suit.

Sheriff's Return.

Received 12th March, 1841, and served copy of this rule on C. M. Jones, in person. Returned 12th March, 1841.

LS. A. DUEROS,
Sheriff Com'l Court.

Answer of Ward, Moffitt & Co., Garnishees.

Filed March 13th, 1841.

NEW ORLEANS, March 2d, 1841.

In answer to the above notice we state, that we have no money or property in our hands belonging to W. A. Wilson.

WARD, MOFFITT & CO.

I am satisfied with the above amswer.

JOHN W. RUSSELL.

March 4th, 1841.

Agreement to sell Property attached.

Filed March 15th, 1841.

JOHN W. RUSSELL et al.
v.
W. A. WILSON. } Commercial Court.

It is hereby agreed, that the steamboat Rodolph attached in this suit, be sold by the sheriff of the Commercial Court of New Orleans, at public auction, on Wednesday, 24th March, 1841, on a credit of three, six, and nine months, for approved paper, with city indorsements on acceptances, and bearing mortgage upon the boat till final payment.

This sale to affect in no manner the right of any of the parties, but is made and agreed upon for the purpose of avoiding the expense that would be incurred in case the boat should be kept until the decision of the suit, and proceeds to be held by sheriff, subject to the further order of court.

PEYTON & SMITH,
For Russell.

W. A. WILSON.

March 13th, 1841.

Order of Sale.

Entered March 15th, 1841.

J. W. RUSSELL et al.
v.
W. A. WILSON. } No. 3631.

On motion of C. M. Jones, of counsel for defendant, and on filing agreement,

Ordered, that the steamer Rodolph, attached in this case, be sold by the sheriff of this court, on the 24th March, 1841, on a credit of three, six, and nine months, for approved paper, with city indorsements or acceptances, and bearing mortgage on the boat till paid, the proceeds to be by him held subject to the further order of said court.

Sheriff's Return, on Copy of said Order.

Received, 15th March, 1841, and in obedience to the within order, and by consent of parties, advertised for sale the steamboat Rodolph, her machinery, &c., which was sold at the City Exchange, St. Louis street, on the 12th April, 1841, to J. W. Russell, for the sum of $3100, at three, six, and nine months' notes, indorsed by S. C. Ogden, which notes I hold subject to the further order of this court.

Returned 30th June, 1841.

LS. A. DUCROS,
Sheriff Com'l Court.

Consent to appoint Receiver.

Filed March 17th, 1841.

JOHN W. RUSSELL et al.
v.
W. A. WILSON.

It is agreed that the books and accounts of the steamer Rodolph, sequestered in this case, be delivered to Ward, Moffatt & Co., in order that the same be collected, and, when collected, the same to be applied to the payment of those debts that may be decided by the court to be privileged; and that Ward, Moffatt & Co. be authorized to collect said debts and accounts.

PEYTON & SMITH.
C. M. JONES.

Order appointing Receiver.

Entered March 17th, 1841.

JOHN W. RUSSELL et al.
v.
W. A. WILSON. } No. 3631.

On motion of J. W. Smith, of counsel for plaintiffs, and on filing consent, ordered, that the books and accounts of the steamer Rodolph, sequestered in this case, be delivered to Ward, Moffatt & Co., in order that the same be collected, and, when collected, the same to be applied to the payment of those debts that may be decided by the court to be privileged; and that Ward, Moffatt & Co. be authorized to collect said debts and accounts.

State of Louisiana, Fourth District Court of New Orleans.

I, William C. Auld, clerk of the Fourth District Court of New Orleans, State aforesaid, do hereby certify that the above and foregoing pages contain a full and complete transcript of the record of the case wherein John W. Russell and others are plaintiffs, and W. A. Wilson is defendant, instituted in the late Commercial Court of New Orleans, and now on the records thereof, under the number 3631.

And I do further certify that, pursuant to an act of the legislature of the State, approved the 30th day of April, 1846, the records of the said late Commercial Court have been transferred to this court, and are now in my custody and possession as clerk aforesaid.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, on this eighth day of December, in the year of our Lord eighteen hundred and fifty-three, and in the seventy-eighth year of the independence of the United States of America.

[SEAL.]

WM. C. AULD,
Clerk.

I, Mortimer M. Reynolds, sole judge of the Fourth District Court of New Orleans, do hereby certify that William C. Auld, whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, clerk of the said court; and that the signature, "Wm. C. Auld, clerk," to the said certificate, is in the proper handwriting of him the said clerk. To his official acts as such, full faith and credit are due; and I do further certify his attestation to be in due form of law.

Given under my hand, at the city of New Orleans, this 8th day of December, A.D. 1853.

M. M. REYNOLDS,
Judge.

Exhibit No. 2.

The State of Louisiana, Commercial Court of New Orleans.

JOHN W. RUSSELL et al. } No. 4056.
v.
W. A. WILSON.

Affidavit and Order for Attachment.

Filed May 13th, 1841.

JOHN W. RUSSELL et al. } Com'l Court.
v.
W. A. WILSON.

S. C. Ogden being sworn, deposes, that he is the duly authorized agent herein of John Wilson Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, the plaintiffs in this cause, who are all absent from the State of Louisiana.

That W. A. Wilson is justly indebted to said plaintiffs in the full sum of six thousand four hundred and twenty and $\frac{42}{100}$ dollars, which is now due and payable. That said W. A. Wilson resides out of this State.

S. C. OGDEN.

Sworn to and subscribed before me, this 13th May, 1841,
O. P. JACKSON,
Judge.

It is ordered, that an attachment issue in this case, as prayed for, plaintiffs giving bond, with S. C. Ogden as surety, in the sum of fifteen thousand dollars, conditioned as the law directs.

13th May, 1841.

R. GARDERE,
Deputy Clerk.

Attachment Bond, annexed to Affidavit.

Know all men by these presents, that we, John W. Russell, Church' Samuel, Lindsay, Philip Swigert, and Edward Watson, and S. C. Ogden, of the city of New Orleans, and State of Louisiana, are held and firmly bound unto W. A. Wilson in the sum of fifteen thousand dollars, lawful money of the United States of America, to be paid to the said W. A. Wilson, his heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 13th day of May, in the year of our Lord 1841.

Whereas, said John W. Russell, and the other obligors have, this day, presented a petition to the honorable the Commercial Court of New Orleans, praying an attachment against W. A. Wilson for $6420\frac{42}{100}$.

Now the condition of the above obligation is, that we, the above bound John W. Russell, and his co-obligors, and S. C. Ogden, will well and truly pay to the said W. A. Wilson, the defendant in said attachment, all such damages as he may recover against us, in case it should be decided that the attachment was wrongfully obtained.

For J. M. Russell, C. Samuel, Lindsay, Philip Swigert, and Edward Watson.

S. D. OGDEN, [L. S.]
Attorney in fact.

S. D. OGDEN. [L. S.]

Signed, sealed, and delivered
in the presence of
JAS. ROZIER.

Writ of Attachment.

The State of Louisiana, Commercial Court of New Orleans.

The State of Louisiana to the Sheriff of the Commercial Court of New Orleans, greeting:

Whereas due proof has been made before the Commercial Court of New Orleans, by S. E. Ogden, agent, that W. A. Wilson is indebted to John Wilson Russell, Churchill Samuel, Lindsay, Philip Swigert, and Edward Watson, in the sum of six thousand four hundred and twenty $\frac{42}{100}$ dollars, and that the said W. A. Wilson resides permanently out of the State of Louisiana. Now, therefore, you are commanded in the name of the State of Louisiana and of the Commercial Court of New Orleans, to seize and attach according to law, and take into your possession, the goods and chattels, lands and tenements, rights and moneys, effects and credits of the said W. A. Wilson, if any you find in said parish, to the amount what will suffice to discharge the said debts and costs of said suit, and that you give notice of this proceeding, by leaving a copy thereof in the French and English languages at the last place of abode of the said defendant, if in said parish, and causing a true copy thereof to be affixed at the door of the parish church of said parish, and make return of this writ, and indorse thereon the manner in which you have executed it, before our court, on or before the first Monday of June in the year of our Lord 1841. Clerk's office this 13th day of May, 1841.

R. GARDERE,
Deputy Clerk.

Sheriff's Return of said Writ.

JOHN W. RUSSELL et al.
v.
W. A. WILSON. } No. 4056.

Received 13th May, 1841, at 11 o'clock, A. M., and attached, in the hands of the sheriff of the Commercial Court, the proceeds of the steamboat Rodolph, sold in the case of Russell *v.* Wilson, and the defendant as herein stated, residing out of the State, I posted copy of citation and attachment to the door of the church St. Louis, of Orleans, and also to that of the room in which this honorable court is held, and executed this writ in all things as the law directs.

Returned first Monday of June, 1841.

LS. A. DUCROS,
Sheriff Commercial Court.

Petition.

Filed May 14th, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans.

The petition of John Wilson Russell, Churchill Samuel, Thomas Lindsay, Philip Swigert, and Edward Watson, who all reside in Frankfort, in the State of Kentucky, respectfully shows, that W. A. Wilson, who resides in the State of Mississippi, is justly and truly indebted unto petitioners in the full sum of six thousand four hundred and twenty dollars and forty-two cents, and interest at the rate of five per centum per annum from the 4th day of March, 1841, for this, to wit: That petitioners are holders and owners of a certain promissory note for the sum of six thousand four hundred and twenty dollars and forty-two cents, drawn by W. A. Wilson, R. Christmas, and H. and T. H. Christmas, jointly and severally, to the order of and indorsed by one of your petitioners, Churchill Samuel, dated at Vicksburg, on the 10th day of March, 1840, and payable on the first day of March then next, at the Merchants' Bank in the city of New Orleans, without defalcation, for value received, the payment of which note was secured by special mortgage, made by said W. A. Wilson, by act passed before W. Christy, notary public, on the 20th March, 1840, upon the steamer Rodolph, her tackle and apparel, which mortgage was duly recorded on the enrolment of said boat; that although the note was made payable solely to said Churchill Samuel, yet your petitioners then and now were all interested in said note, and said mortgage inures to the benefit of all said petitioners, who are the owners of said note; all which will more fully appear by reference to the said note and the authentic copy of the act of said mortgage thereof, which are hereunto annexed for reference, and said note is made a part hereof.

Petitioners further allege that the said W. A. Wilson, although thereunto amicably requested, refuses to pay the amount for which he is indebted as aforesaid, and he has property within the jurisdiction of this court. That petitioners have the right of mortgage upon said steamer, her tackle and apparel, for the payment of said note. That the said boat is now in the possession of said W. A. Wilson. That demand of payment of said note was, before this suit was brought, duly made at the Merchants' Bank in the city of New Orleans, and payment was refused.

Petitioners therefore pray, that the bond and affidavit already filed being considered as parts hereof, that the writ of attachment herein issued in favor of petitioners, and against W.A. Watson, for the sum of $6420\frac{42}{100}$ dollars and the writ of sequestration of said steamer Rodolph for the said sum of $6420\frac{42}{100}$ dollars be maintained, and that said W. A. Wilson, who is temporarily in New Orleans, be cited to appear and answer this petition, and that after due proceedings he be condemned to pay the petitioners the aforesaid sum of six thousand four hundred and twenty dollars and forty-two cents, with interest as aforesaid from the date aforesaid, with mortgage and privilege in reference to all other persons for the payment of said sum of money upon the property attached, and on the steamboat Rodolph, already sequestered, and costs of suit. And petitioners ask for all general and equitable relief.

PEYTON & SMITH,
For Plaintiffs.

Indorsement on said Petition.

Received the original note sued on, 4th March, 1842.
PEYTON & SMITH.

Service accepted, and citation waived.

C. M. JONES,
For Defendant.

Act of Mortgage annexed to Petition.

State of Louisiana, City of New Orleans.

Be it known that this day before me, William Christy, a notary public, in and for the said city and parish of New Orleans, duly commissioned and qualified, personally came and appeared William A. Wilson, of Yazoo county, in the State of Mississippi, who declared that he is justly and truly indebted unto Churchill Samuel of Frankfort, in the State of Kentucky, in the sum of six thousand four hundred and twenty dollars and forty-two cents, balance of account, for which he has given a promissory note, drawn by him, said Wilson, R. Christmas, and T. H. Christmas, jointly and severally, to the

order of Churchill Samuel, dated on the tenth day of March, instant, and made payable at the Merchants' Bank in this city, on the first day of March next, which note after having been *paraptued* by me, said notary, to identify it with this act, was delivered to the said Churchill Samuel, who hereby acknowledges the receipt thereof.

Now, therefore, in order to secure the full and punctual payment of the said promissory note at maturity, the said Wilson, moreover that he declared that he does by these presents specially mortgage and hypothecate unto the said Churchill Samuel, present, and accepting for himself, his heirs and assigns, the steamboat called the "Rodolph," of Yazoo, of one hundred and fifty tons burthen, together with the engine, boilers, tackle, apparel, and furniture, promising and hereby binding himself, his heirs and assigns, not to alienate, deteriorate, or incumber the same to the prejudice of this mortgage.

Thus done and passed in my office at the city of New Orleans aforesaid, in the presence of William G. Latham and George Rareshide, witnesses of lawful age and domiciliated in this city, who hereunto subscribe their names, together with the said appearers, and me, said notary, on this twentieth day of March, in the year of our Lord one thousand eight hundred and forty.

Original signed, W. A. WILSON,
CHURCHILL SAMUEL,
W. G. LATHAM,
GEO. RARESCHIDE.

WM. CHRISTY,
Notary Public.

I certify the foregoing to be true copy of the original act. In faith whereof, I grant these presents under my signature, and the impress of my seal of office at New Orleans, this twenty-fourth day of February, eighteen hundred and forty-one.

WM. CHRISTY,
Notary Public.

Copy of Note annexed to said Petition.

J. W. RUSSELL et al.
v.
W. A. WILSON. } No. 4056.

VICKSBURG, March 10, 1840.

$6420\frac{42}{100}$.

On the first day of March next, we jointly and severally promise to pay to Churchill Samuel, or order, six thousand four hundred and twenty $\frac{42}{100}$ dollars, at the Merchants' Bank, in the city of New Orleans, without defalcation, for value received.

Signed, W. A. WILSON,
Signed, R. CHRISTMAS,
Signed, H. & T. H. CHRISTMAS.

Ne varietur, in conformity with an act of mortgage passed before me this day.

Signed, WM. CHRISTY,
Notary Public.

NEW ORLEANS, March 20, 1846.

(Indorsed): Churchill Samuel.

JOHN W. RUSSELL.

Commercial Court of New Orleans.

CLERK'S OFFICE, March 4th, 1842.

A true copy.

R. GARDERE,
Deputy Clerk.

Default.

Entered June 8th, 1841.

J. W. RUSSELL et al.
v.
W. A. WILSON. } No. 4056.

On motion of J. W. Smith, of counsel for plaintiffs, and on showing to the court that defendant has failed to answer, though he had duly accepted service of the petition and citation. Ordered, that judgment by default be herein rendered.

Answer, Filed June 16th, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans: The answer of A. W. Wilson to the petition of J. W. Russell respectfully shows, that he denies each and every the allegations of petition, and prays to be dismissed with costs, &c.

C. M. JONES,
For Respondent.

Order, Default set aside.

Entered, June 16th, 1841.

J. W. RUSSELL
v.
A. W. WILSON. } No. 4056.

On motion of C. M. Jones, of counsel for defendant, and, on filing, said defendant's answer. Ordered, that the judgment by default herein rendered be set aside.

Judgment.

J. W. RUSSELL et al.
v.
W. A. WILSON. } No. 4056.

The plaintiffs having proved the allegations of their petition, it is considered that the plaintiffs recover from the defendant, W. A. Wilson, sixty-four hundred and twenty $\frac{42}{100}$ dollars, with five per cent. interest thereon, from 4th March, 1841, till paid, and costs of suit, with privilege on the property seized.

Rendered 29th November, 1841.

Signed, 3d December, 1841.

C. WATTS,
Judge.

Sheriff's Return of Service of Copy of said Judgment.

Received, 3d December, 1841, and on the 4th served copy of the within judgment on C. M. Jones, attorney for the defendant, who accepted service of the same.

Returned 4th Dec. 1841.

LS. A. DUCROS,
Sheriff Com. Court.

Writ of Fieri Facias.

State of Louisiana, Commercial Court of New Orleans.

The State of Louisiana, to the Sheriff of the Commercial Court of New Orleans, greeting:

We command you in the name of the State of Louisiana, and of the Commercial Court of New Orleans, that you demand from W. A. Wilson the sum of sixty-four hundred and twenty $\frac{42}{100}$ dollars, with five per cent. interest thereon from 4 March, 1841, till paid, and also the sum of nineteen $\frac{75}{100}$ dollars costs, which J. W. Russell et al. lately recovered by judgment of the Commercial Court of New Orleans, and if he shall not pay the same after legal demand, that then you cause the same to be made out of the personal estate of the said W. A. Wilson, except slaves, in your district, if sufficient personal estate, exclusive of slaves, can be found; but if sufficient personal estate of said W. A. Wilson, exclusive of slaves, cannot be found in your district, that then you cause the said sum to be made of the real estate and slaves of said W. A. Wilson, in your district, whereof he was owner on the 3d day of December, 1841, in whose hands soever the same may have come, and that you have those moneys before our said court, to render the said J. W. Russell et al. for the judgment aforesaid, on the second Monday of March next, together with this writ.

Witness the Honorable Charles Watts, judge of said court, the 25th day of January, in the year of our Lord, one thousand eight hundred and forty-two, and in the 66th year of the independence of the United States.

R. GARDERE,
Deputy Clerk.

Judgment, $6420 42
Interest,
Costs, . . 19 75
Tax, . . 15 00

Sheriff's Return of said Writ.

Received 25th January, 1842, and seized the proceeds of three notes, dated 31 May, 1841, at 3, 6, and 9 months, in favor of, and indorsed by S. C. Ogden for $1033.33, each drawn by J. W. Russell, and protested for non payment, which said were given to me in payment of the steamboat Rodolph, and of which seizure nothing has yet come to my hands; and executed this writ, in all things as the law directs. No other property found.

Returned 2d Monday of March, 1842.

LS. A. DUEROS,
Sheriff Com'l Court.

State of Louisiana, Fourth District Court of New Orleans.

I, William C. Auld, clerk of the Fourth District Court of New Orleans, State aforesaid, do hereby certify, that the above and foregoing pages contain a full and complete transcript of the record of the case wherein "J. W. Russell et al.," are plaintiffs, and W. A. Wilson is defendant, instituted in the late Commercial Court of New Orleans, and now on the records thereof, under the No. 4056; and I do further certify, that pursuant to an act of the legislature of this State, approved the 30th day of April, 1846, the records of the said late Commercial Court have been transferred to this court, and are now in my custody and possession, as clerk aforesaid.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, on this second day of December, in the year of our Lord one thousand eight hundred and fifty-three, and in the seventy-eighth year of the independence of the United States of America.

WM. C. AULD,
Clerk.

I, Mortimer M. Reynolds, sole judge of the Fourth District Court of New Orleans, do hereby certify that William C. Auld, whose signa-

ture appears to the above certificate, is now and was at the time of signing the same clerk of the said court, and that the signature Wm. C. Auld, clerk, to the said certificate, is in the proper handwriting of him the said clerk; to his official acts as such full faith and credit are due; and I further certify his attestation to be in due form of law.

Given under my hand, at the city of New Orleans, this 2d day of December, A.D. 1853.

M. M. REYNOLDS,
Judge.

And at a court continued and held as aforesaid, on the 9th day of June, 1854, came the parties by their attorneys, and the plaintiff waived all exceptions to the depositions taken by the defendants; and all further proceedings are continued until the next term of this court.

And at a court continued and held as aforesaid, on the 17th day of November, 1854, came the parties by their attorneys, and the plaintiff, by leave of court, filed an amended petition herein. And all further proceedings are continued until the next term of this court.

The following is the amended petition referred to and filed in the above order, to wit:

Amended Petition.

Jefferson Circuit, *set.*

JOHN W. RUSSELL, plaintiff,
against
RICHARD CHRISTMAS, E. W. WATSON, JACOB SWIGERT, PHILIP SWIGERT, THOMAS N. LINDSAY, self, as admr. C. SAMUEL, deceased, defendants.

The plaintiff amends his petition herein by stating that the persons above named as defendants, except Christmas, have an interest with himself in the note sued upon, though the same is in the name of plaintiff Russell. He charges that about the year 183 , said Richard Christmas, either for himself or in conjunction with the other payers of the note sued on, bought from plaintiff and said Swigert, Watson, Thomas N. Lindsey (and C. Samuel, now deceased, and on whose estate said Th. N. Lindsey is administrator), the steamer Rodolph. The purchase was arranged by said defendant Richard Christmas at the city of Cincinnati, or at Louisville, Kentucky. Plaintiff does not remember certainly which place said C. Samuel,

acting at the time for himself, plaintiff, and other owners of said boat. In arranging the payments for said boat, the said Richard Christmas gave his acceptance for some of the instalments, payable at New Orleans, Louisiana. That he gave one acceptance, payable the day of for $. Shortly before this acceptance fell due, said Richard Christmas wrote the letter herewith presented as part hereof, marked X., asking to be permitted to renew said acceptance, and the result was the giving of the note sued upon to take up the former acceptance of said Richard Christmas, so that plaintiff charges that if the owner of said boat have in any way been deluded or deceived by said Richard Christmas or his associates, in the taking of the last note, the one sued on, they are entitled to recover of said Christmas the amount of this acceptance, for which said note was given, which said acceptance was given up when said last note was given; they believing as they do still that said Richard Christmas was still bound, never having agreed or intended to agree to his release.

The plaintiff further states that said Richard Christmas, being during all the time since said note sued upon fell due insolvent, they did not sue him, at least he so kept his means, as plaintiff was advised that nothing could be coerced from him. The said Churchill Samuel, who negotiated the sale of said boat with said defendant, Richard Christmas, having died, they feel justified in asking said defendant, Richard Christmas, a few plain questions:

1st. Did you or not, for yourself and brother, buy from Churchill Samuel, now deceased, the steamer Rodolph, then belonging to the persons above-named, as her owners? If yea, at what price, at what place, and for what sum, and on what payments? and how was the evidence of your indebtedness arranged?

2d. Did you not have the transfer of the boat's papers made to you as an owner, and did you not have the transfer of the boat's paper made to you as an owner? and did you not have said boat entered at the custom-house in the name of yourself and brothers?

3d. Did you not for payment in part give to C. Samuel the acceptance of yourself, drawn on you by Wilson or your brothers for the amount of money owing for said boat, which was not paid, but for which the note sued on was given?

4th. Did you not write to C. Samuel the letter filed with this amended petition? If it is not in your handwriting, did you not cause it to be written or know of its having been written? and was not your acceptance taken up by said note?

5th. Did you not verbally and by letter "promise C. Samuel repeatedly in his lifetime to pay said note, and express your regret that you were unable at the several times to pay the same?

6th. Have you not had various executions in Mississippi returned against you, no property found in substance?

7th. Whose handwriting is the signature R. Christmas on the note

sued upon? Is this note the only one he ever put your name to, and if not have you not sometimes such acts by paying papers to which your name had been put?

8th. Will you please state who constituted the firm of Christmas & Brother, or whatever it was styled, at New Orleans or elsewhere, when you purchased the Rodolph, and what interest you had therein?

9th. Have you answered the foregoing questions without mental qualifications or reservation, and do you in conclusion, with your attention specially called thereto, and with the foregoing precautions given you, swear in due form of law that you were not bound as principal in the purchase of the Rodolph, in the giving of the acceptance, for which the note sued on was given, and that you did not fully know said note was given, and its purposes?

10th. Did you not long after the note was given promise plaintiff in person to pay said note?

JOHN W. RUSSELL.

State of Kentucky, Franklin County, *set.*

John W. Russell states that he believes the statements of the foregoing amended petition to be true; that he believes the answer of defendant, Richard Christmas, who is absent from the State of Kentucky, to the interrogatories filed with this amended petition, will result in his admitting he bought the steamer Rodolph, and that the note sued on was given as stated in this amended petition, to take up the acceptance of said Christmas; and that he was a principal in said purchase.

Plaintiff says he does not file said interrogatories for delay.

JOHN W. RUSSELL.

Sworn to before the undersigned, a justice of the peace for Franklin county, State of Kentucky, by John W. Russell, 22d July, 1854.

G. W. GWIN,
J. P. F. C.

The plaintiff amends his petition by saying the draft referred to in his pleading was for $6000 due 1st January, 1840.

BARRETT & WOOD,
Attorneys for Plaintiff.

The following is the letter referred to in the foregoing amended petition, to wit:

VICKSBURG, December 19th, 1839.

Mr. CHURCHILL SAMUEL.

Sir: My draft for $6000 falls due in New Orleans on 1–4 January, given for steamer Rodolph, which I fear I will not be able to pay at maturity. I shall endeavor to pay a part, say $2000 or

$2500 on it, and must ask the favor to renew it for ninety days; cotton being so very low I dislike exceedingly to sell my interest in the boat. I have parted with and am to receive my pay on 20th March. By extending the payment of this, you will much oblige me. The unprecedate terms is sufficient apology for the request; let me hear from you immediately,

And oblige yours, respectfully,

R. CHRISTMAS.

And at a court continued and held as aforesaid, on the 15th day of January, 1855, came the defendant Richard Christmas, by his attorney, and by leave of the court filed his answer to the amended petition of the plaintiff herein.

The following is the answer to the amended petition referred to in the above order, to wit:

State of Kentucky, Jefferson Circuit.

JOHN W. RUSSELL, plaintiff,
v.
RICHARD CHRISTMAS et al., defendants.

The answer of Richard Christmas to the amended petition filed against him in said case by said plaintiff, for answer thereto, said defendant says, that about the year 183 , he purchased, at Harodsburg springs, Kentucky, for said Churchill Samuel, the steamer Rodolph; that the other parties, named in said petition as indorsers of said boat, had nothing to do with the sale thereof to him. He made the purchase for himself. Other persons spoke of taking an interest therein, among whom was Mr. C. Young, Thomas Christmas (the last defendant within), and J. Jennings; none of whom, however, ever became interested in the purchase, or paid any part of the purchase-money. In arranging the payment for said boat, this defendant drew his three drafts, on himself,—one for $6000, falling due, I think, on the 1–4 of January, 1840,—this one payable in New Orleans,—and accepted each of said drafts. He cannot say where and when the others became due, or were payable. Said arrangement was not made either in Louisville, Kentucky, or in Cincinnati, in the State of Ohio. All of which drafts, as defendant believes, were settled and paid, as he was informed both by Wilson and said C. Samuel, both of whom were partier, payee, and maker of the note sued on. Said defendant admits the writing of the letter made Exhibit X. to said amended petition, but denies that the result of said letter was the giving of the note sued on, so far he knows or believes, to take up the former acceptances of this defendant. Said acceptance may have been taken up in that manner, but, from information which this defendant received from said Churchill Samuel, he

believes and states that it was given to take up a debt of Wilson, and not the said acceptance. He denies that said plaintiffs, or either of them, have been deluded by him, and denies that they, or either of them, are entitled in any manner to recover from him on said acceptance. Said defendant avers, that at the commencement of this action, more than five years had elapsed (without suit) after the supposed right of action accrued on said acceptance, and this defendant relies on the statute of limitations and on lapse of time. Said defendant avers that while he was, during the time referred to by said plaintiff in said amended petition, in embarrassed circumstances, yet he avers that he never attempted to conceal his effects. He denies that plaintiff had any knowledge of how he kept his means. Defendant will now proceed to answer the question propounded to him.

Answer to question 1. I purchased from said Churchill Samuel said steamer Rodolph for myself, and knew of no one else interested in said boat as owner, so far as I can remember. My recollection is that I gave $18,000 for the boat; that I purchased her at Harrodsburg springs, Kentucky. The payments were arranged in three drafts; whether equal instalments or not, I cannot remember. Said drafts were drawn on and accepted by myself, the first two of which were payable in Vicksburg, Missi., and the last one, for $6000, due 1–4 January, 1840, was payable in New Orleans, Louisiana, and was the one referred to in the letter marked X.

Answer to question 2. Mr. Samuel was to have had the transfer of the boat, and her papers made to me. Whether he did so or not, I do not know. I do not know how said boat was entered in Louisville, of my own knowledge. I do not know whether a transfer of the boat's papers was made to me as an owner or not. Mr. Samuel was to have done so.

Answer to question 3. I have described the terms, and from whom I purchased said boat, and have no knowledge or recollection of any such draft or acceptance as named in said question. Do not know whether any such draft was paid, or whether the note sued on was given for any such draft.

He further answers, that he does not of his own knowledge know that the note sued on was given for the acceptance described by the plaintiff. On the contrary, he has information, derived from said C. Samuel in his lifetime, that that acceptance was not the consideration of the giving of the note sued on, but an acceptance of debt of a different description was the consideration of giving that note, and it was given to pay Wilson's debt for the Rodolph, he being then and for many months previously the owner of said boat, the defendant nor his brother then, in fact, being interested in said boat as owner. This defendant believes said statement of said C. Samuel to be true. My recollection is that my $6000 acceptance, falling due 1–4 January, 1840, was taken up and handed to me by Wilson, and I gave Wilson credit, by the amount of that acceptance, on his debt to me.

How he took up said $6000 acceptance I do not know, as I was not present when the transaction of taking up the acceptance by Wilson occurred.

Answer to question 4. I wrote the letter filed with the amended petition. It is in my handwriting, I think, as I only have a copy of it before me. I do not think my acceptance was taken up by said note, for the reason I have stated in my third answer. If it was so taken up, it was without my knowledge, as I did not know of the existence of said note at the time I settled with said Wilson, and he gave it up to me.

Answer to question 5. So far as I can remember, I never did, either verbally or by letter, promise C. Samuel, in his lifetime, to pay said note, or express any regret at my inability to pay it.

Answer to question 6. I have never had executions returned against me in Mississippi unsatisfied, though there are some cases against me in which such returns have been made.

Answer to question 7. The signature R. Christmas, on the note sued on, is in the handwriting of H. Christmas, I think. I do not know whether that note is the only one he has put my name to. I have never sanctioned such acts by paying such paper.

Answer to question 8. I never knew of such a firm at New Orleans or elsewhere as Christmas & Brother, at any time; and never had any interest in such concern, and never was interested, concern or firm in New Orleans.

Answer to question 9. I have examined said questions without mental qualification or reservation and according to my own knowledge, and all I have to say in relation to said question is, that in my answers above I have fully answered said questions; and further, that I did not know that said note was given or its purposes, until after it had been given, and then only from information. That of C. Samuel, I have stated that drawn from others had not been stated. It is not believed evidence, and is not asked for by plaintiffs; but I have no information or belief contrary to what has been set forth in answers above.

Answer to question 10. I never promised plaintiff at any time to pay said note; and further he says not.

State of Mississippi, Issaquena County.

The defendant, Richard Christmas, this day appeared before me, a justice of the peace and ex-officio notary public of said county and State, and being duly sworn, made oath that he believes the statements of the foregoing answer to be true.

R. CHRISTMAS.

Sworn to and subcribed by said R. Christmas before me, this 21st day of January, A.D. 1855.

WASH. B. FARR, [SEAL.]
Justice of the Peace and Ex-officio
Notary Public.

And at a court continued and held as aforesaid, on the 23d day of January, 1855, came the parties, by their attorneys; and on motion of the plaintiff, it is ordered that this case be continued at his costs until the next term of this court.

And at a court continued and held as aforesaid, on the 4th day of June, 1855, came the parties, by their attorney; wherefore to try the issue joined as to the defendant, Richard Christmas, let a jury come; and thereupon came a jury, to wit: "R. K. White, A. Borie, John F. Harris, J. Dillon, William Cotton, C. W. Field, W. C. Kenneday, Samuel Caswell, J. S. Kennedy, A. O. Smith, James J. Lemon, and Leven Cooper," who being elected, tried, and sworn, well and truly to try the issue as to the defendant, Richard Christmas; and there not being sufficient time to go through with this case on this day, all further proceedings are laid over till to-morrow morning.

And at a court continued and held as aforesaid, on the 5th day of June, 1855, came again the parties, by their attorneys; and the jury impanelled and sworn herein again appeared in the jury-box, and having heard the argument of counsel, upon oath returned into court the following verdict, to wit: "We, the jury, find the issues for the defendant Christmas."

J. DILLER,
Foreman.

It is, therefore, considered by the court, that the defendant, Richard Christmas, recover of the plaintiff his costs herein expended, and may have "Exon-z."

And then the plaintiff tendered to the court his bill of exceptions herein, which being signed and sealed by the court, is ordered to be made a part of the record and proceedings herein.

The following are the bill of exceptions referred to in the above order, to wit:

J. W. RUSSELL, plaintiff,
v.
RICHARD CHRISTMAS, &c., defendants.

Be it known, that on the trial of this case, the plaintiff read to the jury the deposition of N. D. Coleman, H. J. Todd, Samuel Steel,

John A. Hotten, and the letter from the defendant, Richard Christmas, to Churchill Samuel, dated December 19th, 1859 (39); and the answer of defendant to interrogatories filed by plaintiff. Here the plaintiff rested his case. The defendant read the depositions of Elisha North, S. T. Whitehead, A. M. Young, B. S. Tappan, A. K. Smeads, B. W. Burney, Samuel Nelson, D. W. C. Bonham, and Duff Green; this was all the testimony introduced. Also, read the statute of Mississippi barring suit in six years on promissory notes. The plaintiff then asked the court to instruct the jury, which instructions, marked 1, 2, 3, 4, and 5, are as follows, to wit:

1st. The court instructs the jury that if they believe, from the evidence in this case, that Richard Christmas signed the note sued on, that he cannot succeed on the pleá of non est factum.

2d. That should the jury find that the note sued on was not signed and executed by Richard Christmas, in person; yet if they believe, from the evidence, that said note was signed with his sanction, or he approved of the same, after the execution thereof, his sanction and approval made the note his act and deed, and he cannot avail himself of the plea of non est factum.

3d. Should the jury believe, from the evidence, that the note sued on was not executed by defendant, and was not afterwards sanctioned by him, yet they should find for plaintiff if they should further believe that the note sued on was given plaintiff or his agent, Samuel, in liquidation and discharge of defendant's original acceptance of $6000, due 1st January, 1840; and in consequence of the delivery of said note, the plaintiff, or his agent, was induced to surrender said acceptance, believing at the time that the note sued on was a genuine note, and binding on all the parties whose names were signed thereto.

4th. The court further instructs the jury that the law when the contract is made, is to determine the validity and interpretation of the contract; whilst the law where the suit is bro't determines the form and extent of the remedy; and that the pleá of the statute of limitations of the State of Mississippi cannot be relied on in this action as a bar to plaintiff's claim, and is no defence in the courts of Kentucky.

5th. The court further instructs the jury that if they believe, from the evidence in this case, that the plaintiff resided in Kentucky, and defendant was a non-resident of this State, and was not in the State at the time plaintiff's cause of action accrued, that the statute of limitations of this State did not commence running against plaintiff's claim until said defendant came within the limits of the State of Kentucky and the jurisdiction of this court; and that they cannot find against the plaintiff unless they believe that five years had elapsed from the time said defendant came into this State before the plaintiff commenced this action.

The court gave instructions No. 1 and 2, but refused to give the instructions 3, 4, and 5; but overruled the same to the ruling of the court, in refusing to give the instructions 3, 4, and 5. The plaintiffs excepts, and prays that this his bill of exceptions be signed, and enrolled as part of this record.

W. F. BULLOCK. [SEAL.]

The following are the Interrogatories and Depositions referred to in the foregoing bill of exceptions, to wit:

For N. D. Coleman and others.

1st. Please state all you know of the handwriting of the body and signatures to the note sued upon.

2d. When was said note placed in your hands, and what conversations you had with said Richard Christmas about said note? and what, if any, offers or promises to settle and adjust the same? giving the conversations, if any, in full, and the times as near as possible, and the offers and promises made, if any.

3d. What has been the condition of said Christmas since the said note fell due down to the present time, and what savering, if any, is there to the holders of such paper where the debtors are insolvent by the Mississippi laws.

4th. Has said Christmas, or any one purporting to come from him, at any time since the note passed out of your hands or shortly before, attempted to talk with you about the signatures to said note, or Christmas acknowledgments and responsibility in relation thereto, or promises to pay the same? If yea, state who, and give the conversations.

5th. State any other matter or thing you may know in the premises relative to the said note or said Richard Christmas' liability therefor, or of his connection in business with W. A. Wilson and H. & T. H. Christmas.

BARRETT & WOOD,
For Plaintiff.

Answer of N. D. Coleman to interrogatories propounded to him, to be read as evidence in a suit at law now pending in the Jefferson Circuit Court, State of Kentucky, wherein John W. Russell is plaintiff, and W. A. Wilson, Richard Christmas, &c., are defendants.

In answer to 1st interrogatory. I have seen Mr. Christmas write his name but seldom, indeed, never to examine it critically; I have received letters on business from him, acknowledged to be his, and in that way have some knowledge of his handwriting; when I received the note, and until very recently, I suppose that the signature of R. Christmas to the note before me was genuine; indeed, I did not

doubt; but upon a close inspection of that signature and comparison with the signatures to his letters addressed to me, I find considerable difference. I do not profess to be sufficiently acquainted with R. Christmas' handwriting to say positively whether or not the signature is genuine. It has its general appearance, though the signature to the note is more stiff than his usual signature, and the R is not like his usual signature, and the t in Christmas is made and crossed differently from his usual mode of making and crossing the t; from my general knowledge of handwriting, I would say that the signature of R. Christmas, H. & T. H. Christmas were made by the same person. I have no knowledge of the signatures of Wilson and H. & T. H. Christmas, nor in whose handwriting the body of the note.

In answer to 2d question. I do not recollect when the note was placed in my hands; it was several years ago; shortly after, I had conversations with Mr. R. Christmas on the subject, but not having the note with me, I did not show it to him; however, he seemed to understand all about it, when I told him the parties, and that it was given for the Rodolph, as I have been informed; he said he would not pay it,—was not bound,—that judgment could not be gotten on it by law,—and if it could the money could not be made, and such remarks as clearly showed me that it was not his intention to pay the note. I do not pretend to give the precise language of Mr. Christmas, but I inferred that he did not consider himself bound on the paper, because he had received no benefit or consideration, or because he was insolvent, and did not choose to pay those old claims. I think in one conversation he said that he individually had nothing to do in the purchase of the boat. I had a more recent conversation with Mr. Christmas,—about the time the note was sent to Kentucky for suit,—when he offered to pay a small sum,—two or three hundred dollars,—to compromise the case and get rid of trouble. I think it was in the conclusion of that conversation that he for the first time said that he had never signed the note himself, and that he had already put in a plea, or could put in a plea to that effect. He desired to see the note, but it was not in my possession; if I recollect right, I informed him that no such proposition as he made could be agreed to, and that the plaintiffs expected to recover, &c.; that I had received orders to return the note to be filed in the suit.

In answer to 3d interrogatory. I have for many years understood and believe that Mr. R. Christmas was insolvent, that is, that money could not be made out of him by the ordinary process of law. I knew of executions against him in the county where he resides which were returned *no property*, although he lives upon and cultivates a large plantation; I believe it is notorious that money cannot be made by law, though I believe he pays his individual debts and liabilities, and his credit is now good for what he promises. I know of no saving of the statute of limitations in case of insolvency in this State.

In answer to 4th interrogatory. Mr. A. M. Young once came to me and inquired about the note—asked to see it for the purpose of examining the signature. I do not recollect when it was, but I believe it was before I had heard Mr. Christmas had filed his plea of *non est factum* in the suit; Mr. Young asked me if I thought the signature of Christmas was genuine, to which I replied that *I thought it was*, but that I had *not examined it critically*, having never heard while the note was with me that its genuineness was questioned or desired. I do not recollect all the conversation with Mr. Young, but I think he said Christmas would like to compromise the case with a small sum; I do not recollect whether it was Mr. Young or Mr. Christmas himself who informed me that Christmas denied the signature, for, at that time, I had no doubt of and no ground to doubt its genuineness.

Answer to 5th interrogatory. I know of nothing that I can say further, except that in the first conversations I held with Mr. R. Christmas on the subject, he never suggested the fact that he *had not* signed the note nor authorized it to be done by an agent. I knew that Mr. Christmas was a member of the firm of Allen, Christmas & Co., though I did not know who were the other members, except Mr. Allen; not having ever heard Mr. Christmas refuse payment on that ground, I was surprised when I learned what plea he had filed at Louisville. I do not recollect that Mr. Christmas saw the note while I held it, but I am satisfied he knew what note it was and for what consideration it had been executed.

I cannot state whether W. A. Wilson, and H. and T. H. Christmas were partners of R. Christmas, or members of the firm of Allen, Christmas & Co.

And further this deponent saith not.

N. D. COLEMAN.

Sworn to and subscribed before me, this 24th day of March, 1854.

L. S. HOUGHTON,
Commissioner.

Also the deposition of Harry J. Todd, taken at the office of the Court of Appeals in Frankford, on the 16th day of November, 1854, to be read as evidence for the plaintiff in the action pending in the Jefferson Circuit Court, in which John W. Russell is plaintiff and R. Christmas, &c., are defendants.

Deponent being of lawful age, and first sworn, deposes and says:

Question by plaintiff. State whether or not you were present, when a conversation was had between Russell and Christmas, concerning a debt due by the latter to the former for the purchase of the steamboat Rodolph, and if so, state the purport of the conversation, and when it took place.

Answer. In July, 1839, I was clerk of steamboat Empress. Mr.

Richard Christmas was a passenger on the boat from Vicksburg to Memphis, or the mouth of Cumberland river. On the trip, Capt. J. W. Russell had a conversation with Mr. Christmas, in regard to a balance due the owners of the steamer Rodolph by Mr. Christmas, and others, in which Mr. Christmas stated, that at the time he became responsible for the purchase-money of the Rodolph, he did not expect to be called upon to pay any portion of the debt. That he was much surprised when the notes or acceptances given for the boat were protested, that his own engagements were such that he could not then pay, but that he expected in a short time to make such arrangements as would enable him to pay the notes or acceptances for the Rodolph. This is the substance of what I heard Mr. Christmas say on the subject, and further saith not.

H. J. TODD.

Also, the deposition of Samuel Steele, taken on the 16th day of May, 1855, on the part of the plaintiff, deposeth as follows:

Question by the plaintiff. State what you know about the sale of the steamboat Rodolph, made by C. Samuel to R. Christmas; when and where was the sale made; how and in what manner was the boat to be paid for; to whom was she delivered, and when; who was the principals of the purchase, and who the sureties?

Answer. I was clerk of the steamboat Rodolph before her sale; we laid her up at Cincinnati, Ohio, and shortly afterwards I was informed by C. Samuel, one of the owners, that she had been sold to defendant Christmas for $18,000. This, I think, was in the latter part of the summer of 1838. I think the sale was made in Frankfort, from the circumstance, that I paid over to the owners in Frankfort the money the boat had made; and upon coming to Frankfort, in a very short time afterwards, not more than a week, I was informed that she had been sold, and I had not known of Samuel's being absent from Frankfort during the interval. I cannot now state the time she was to be paid for, nor who were principals or sureties in the notes, nor to whom or where she was delivered.

By same. Did you or not settle with J. C. Buckles, of Louisville, a claim he had against the boat, after she was laid up at Cincinnati, and before your settlement with the owners at Frankfort?

Ans. I settled all claims against the boat, so far as I knew, before my settlement with the owners, and so reported to the owners. I do not recollect particularly of settling with Buckles; he was the agent of the boat at Louisville. And further saith not.

SAML. STEELE.

Also, the deposition of John A. Holten, taken at the same time, for the same purpose, deposes and says:

In answer to question first, propounded to Saml. Steele, he deposes and says: I was present at the residence of C. Samuel, in Frank-

fort, and was told by him, I think, in the presence of R. Christmas, that he had sold the steamboat Rodolph to Christmas, who was, I know, at Samuel's house at the time, and was, I think, present in the room. I do not know the price, nor how or when she was to be paid for, nor who were principals or sureties in the purchase. I inferred from the circumstances that the sale was made in Frankfort, although I do not think the place where the sale was made was mentioned. This was, I think, in 1838 or 1839. And further saith not.

JOHN A. HOLTON.

For reference to the letter mentioned in the bill of exceptions, see page 99, heretofore copied; also, the answer of defendant to the interrogatories of plaintiff, see page 100.

The following are the interrogatories and depositions referred to in the bill of exceptions, to wit:

Interrogatories propounded to Witnesses on behalf of defendant, Richard Christmas.

1st. Do you know the parties?

2d. Examine the note annexed, purporting to be signed W. A. Wilson, R. Christmas, and H. and T. H. Christmas, and say if you know the handwriting of Richard Christmas; if so, is or is not that signature of Christmas to said note the signature of said Richard Christmas or not?

3d. Where was Richard Christmas at or about the date of said note? was he or not then in Vicksburg? State fully, and with particular circumstances of your means of knowing, the dates, &c., all you know on that subject.

4th. Was or was not the steamboat Rodolph, at the date of said note, the property of W. A. Wilson; and was or was not the note given for a debt of that boat, or of W. A. Wilson, for which R. Christmas became security?

5th. Where did Richard Christmas reside at the date of said note, and where has he resided from that time to the present?

6th. Has he or not ever since resided in the State of Mississippi?

7th. Are you or not a lawyer in Mississippi; and if so, what length of time by the laws of Mississippi barred a recovery on the note hereto annexed.

8th. State any other facts which you believe may be material for defendant.

BODLEY & LOCKE,
For Christmas.

Cross-interrogatories.

1st. Will you please state in whose handwriting the signature of

Richard Christmas is, and what connection or relation the writer hand had in business with said Richard Christmas?

2d. Do you or not know that Richard Christmas himself purchased the steamer Rodolph at Louisville, Ky., or at Cincinnati, Ohio, long previous to the date of the note sued upon? If yea, please state whether he did or not pay for her, in whole or in part, by drafts or bills he drew on the house of Christmas, Allen & Co., of New Orleans.

3d. Do you or not know that Richard Christmas and H. and T. H. Christmas were members of that firm? If not, who did compose it?

4th. Do you or not know that when the bill or draft on said house or firm fell due, that it was taken up by the note sued upon, and the mortgage executed to secure the same at New Orleans, and that this last arrangement was made at New Orleans and not at Vicksburg?

5th. If you know the arrangement made, state it as it was? What has become of W. A. Wilson, H. and T. H. Christmas, and Allen, and who composed the New Orleans firm in which Richard Christmas was a partner?

6th. Do you, or not, know that Wilson was placed in command of said steamer Rodolph by Richard Christmas, and that he held all the interest he did own or claim in said boat from said Richard Christmas, or his partners?

7th. What has been the condition of Richard Christmas as to property since 1840? Is he or not insolvent, and how long has he been so?

8th. What saving, if any, in the Mississippi law of limitation as to non-resident holders of bills, notes, &c., or where the parties owing them are insolvent?

9th. Does the Mississippi law attempt to make a limitation affecting contracts to be performed elsewhere than in that State?

10th. Do you, or not, know that Richard Christmas has acknowledged an ownership in the Rodolph, and was engaged in the carrying trade with her in the Southern waters?

11th. State all you know of Richard Christmas' connection in business with Wilson, and H. and T. H. Christmas, and all you may know of their signing notes, or other papers for him, and his recognition thereof.

12th. Were you, or not, induced by said Richard Christmas to call and see the note sued on in the hands of N. D. Coleman, of Vicksburg, and requested so to talk with said Coleman as to impress him with the belief that the signature was not said Christmas', and also that said Christmas had never admitted to said Coleman that he owed said debt?

13th. Please state any and all conversations you had with said Coleman, giving the dates of such conversations in relation to said note.

The deposition of Elisha North, taken on the 16th day of March, 1854, to be read as evidence on the part of defendant, Richard Christmas, deposes and says:

Answer to interrogatory 1st. I have known Richard Christmas for the last twenty-five years.

Ans. to int. 2d. I have carefully examined the note referred to in said interrogatory. I am very familiar with the handwriting of said Christmas, having seen him write his name to all kinds of instruments for the last twenty years. His signature is a marked one in the letters R and t. From my knowledge of his signature, and a careful examination of the note named above, purporting to be his, I am satisfied that said signature is not that of said Richard Christmas.

Ans. to int. 3d. I do not know.

Ans. to int. 4th. I do not know.

Ans. to int. 5th. He resided in Mississippi, and has continued to reside there.

Ans. to int. 6th. He has ever since resided in the State of Mississippi.

Ans. to int. 7th. I am not a lawyer, and do not know anything in answer to this question.

And further deponent saith not.

ELISHA NORTH.

Answer to cross-interrogatory 1st. I do not know.

Ans. to cross-int. 2d. I do not know anything about it.

Ans. to cross-int. 3d. I know nothing about it.

Ans. to int. 4th. I know nothing about it.

Ans. to int. 5th. I know nothing at all about it.

Ans. to int. 6th. I know nothing about it.

Ans. to int. 7th. I cannot say whether he is insolvent or not.

Ans. to int. 8th. I do not know.

Ans. to int. 9th. I do not know.

Ans. to int. 10th. I do not.

Ans. to int. 11th. I know nothing about it.

Ans. to int. 12th. I was not, and did not.

Ans. to int. 13th. I never had any conversation with Coleman about said note.

And further deponent saith not.

ELISHA NORTH.

Sworn to and subscribed before me, this 16th March, 1854.

L. S. HOUGHTON,
Commissioner.

The deposition of S. T. Whitehead, taken at the same time, on part of defendant, R. Christmas.

Answer to interrogatory 1st. I have known Richard Christmas since the year 1840, say in January.

Ans. to int. 2d. I have carefully examined said note, and do not think it is.

Ans. to int. 3d. Said Richard Christmas was in Hinds county, Mississippi, at the date of said note, at Daniel Perkins'. He came there on the 7th day of March, 1840, and remained there five days. I am satisfied of this from the fact that during that time I hunted day and night with said Christmas for deer, the said Christmas having come to see said Perkins, who was sick at that time, and died shortly afterwards, and I made his coffin, and have referred to my books to refresh my memory, and be certain that I am right.

Ans. to int. 4th. I do not know.

Ans. to int. 5th. He resided on the Yazoo river, at the date of said note, in this State, and, since 1841, has always resided on the Mississippi river, in this State, engaged in planting.

Ans. to int. 6th. He has.

And further deponent saith not.

S. T. WHITEHEAD.

Answer to cross-interrogatory 1st. I do not know.
Ans. to int. 2d. I do not know.
Ans. to int. 3d. I do not know.
Ans. to int. 4th. I do not know.
Ans. to int. 5th. I do not know.
Ans. to int. 6th. I do not know.
Ans. to int. 7th. I do not know.
Ans. to int. 8th cross. I cannot tell.
Ans. to cross-int. 9th. I am no lawyer, and do not know.
Ans. to cross-int. 10th. I do not know.
Ans. to cross-int. 11th. I know nothing about it.
Ans. to cross-int. 12th. I was not, and did not.
Ans. to cross-int. 13th. I never had any conversation with said Coleman about said note.

And further deponent saith not.

S. T. WHITEHEAD.

Sworn to and subscribed before me, this 16th day of March, 1854.

L. S. HOUGHTON,
Commissioner.

Also the deposition of A. M. Young, taken at the same time, on behalf of defendant.

Answer to interrogatory 1st. I have known Richard Christmas for the last twenty years.

Ans. to int. 2d. I am very familiar with the handwriting of Richard Christmas, having seen him write his name almost a thousand times to all kinds of instruments, and I have carefully examined the note referred to. From my knowledge of his signature, I am satisfied that said signature is not the signature of said Richard Christmas.

Ans. to int. 3d. I do not recollect where he was.

Ans. to int. 4th. I do not know anything about it.

Ans. to int. 5th. At the date of said note, said Richard Christmas resided on his cotton plantation, on the Yazoo river, in this State, as a planter, and, since the year 1841, he has been living on his cotton plantation on the Mississippi river.

Ans. to int. 6th. He has.

Ans. to int. 7th. I am not a lawyer, and do not know.

Ans. to cross-int. 1st. I do not know.

Ans. to cross-int. 2d. I do not know.

Ans. to cross-int. 3d. I do not know.

Ans. to cross-int. 4th. I do not know.

Ans. to cross-int. 5th. I do not remember anything about it, nor do I know that said firm ever existed.

Ans. to cross-int. 6th. I know nothing about it.

Ans. to cross-int. 7th. Said Christmas has always held a great deal of property ever since I knew him, and does at the present time.

Ans. to cross-int. 8th. I know nothing about it.

Ans. to cross-int. 9th. I do not know.

Ans. to cross-int. 10th. I do not, and never knew or heard of his being engaged in steamboating.

Ans. to cross-int. 11th. I know nothing about it.

Ans. to cross-int. 12th. Mr. Christmas requested me to call and see Mr. Coleman, and ask him if he had a note for collection against said Christmas, and requested me to see the note, and ascertain whether the signature thereto was the genuine signature of said Christmas, as he said Christmas had never seen said note, and had heard that said Coleman had it for collection as an attorney. I accordingly called on Mr. Coleman, who stated to me that he had sent the note to Kentucky. I was not requested by said Christmas so to talk with said Coleman, as to impress him with the belief that said signature was not the signature of said Christmas, nor to impress said Coleman with the belief that said Christmas had never admitted

to said Coleman that he owed said debt. I merely called on said Coleman to ascertain whether the signature to said note was that of said Christmas or not.

Ans. to cross-int. 13th. My recollection of my conversation with said Coleman about said note is this, that said Coleman said, said note had been sent to Kentucky as above stated. I asked him if he thought it was the signature of said Christmas, he said he would not be willing to swear that it was. The whole conversation with said Coleman was in relation to said Christmas' signature to said note; and no effort whatever was made by me to induce said Coleman to believe that said signature was not said Christmas', or that said Christmas had never admitted to said Coleman that he owed said debt. I think that this, the only conversation I ever had with said Coleman on this subject, occurred in the month of November or December, 1853. From what Mr. Coleman stated to me at that time, I inferred that he had never presented or shown said note to said Richard Christmas; and further this deponent saith not.

A. M. YOUNG.

Also, the deposition of B. S. Tappan, taken at the same time, on the part of defendant Christmas, deposes and says:

In answer to interrogatory 1st. I have known Richard Christmas intimately over twenty years.

Ans. to int. 2d. I have examined carefully said note, and presume that there is no man more familiar with the signature of said Christmas than I am. I am satisfied that the signature to said note is not the genuine signature of said Richard Christmas.

Ans. to int. 3d. I do not know where he was at that time.

Ans. to int. 4th. I do not know.

Ans. to int. 5th. I came to the State of Mississippi in the year 1838, said Christmas was living here at that time, and has resided in said State ever since.

Ans. to int. 6th. He has.

Ans. to int. 7th. I am not a lawyer, and do not know.

Ans. to cross-int. 1st. I do not know.

Ans. to cross-int. 2d. I know nothing about it.

Ans. to cross-int. 3d. I do not know.

Ans. to cross-int. 4th. I do not know.

Ans. to cross-int. 5th. I do not know.

Ans. to cross-int. 6th. I do not know.

Ans. to cross-int. 7th. I do not know.

Ans. to cross-int. 8th. I do not know, I am no lawyer.

Ans. to cross-int. 9th. I don't know.

Ans. to cross-int. 10th. I do not, and never heard of his being engaged in steamboating.

Ans. to cross-int. 11th. I know nothing about it.

Ans. to cross-int. 12th. I did not, and was not.

Ans. to cross-int. 13th. I never had any conversation with said Coleman about said note; further the deponent saith not.

B. S. TAPPAN.

Also, the deposition of Abraham K. Smedes, taken at the same time, on the part of defendant, Richard Christmas.

Ans. to interrogatory 1st. I have known Richard Christmas, the deponent, since the year 1835 or 1836. I do not know the plaintiff.

Ans. to int. 2d. I have carefully examined the note referred to in said interrogatory. I am quite familiar with the handwriting of said Christmas, having seen him write his name many times to letters, deeds, and other instruments; his signature is uniform and marked particularly in the letter "R.;" from my knowledge of his signature, and a careful comparison of the one the note named above, purporting to be his, I am satisfied that said signature is not that of said Richard Christmas.

Ans. to int. 3d. I do not know where said Christmas was at the date of said note.

Ans. to int. 4th. I know nothing in relation to said steamer Rodolph, or the consideration of said note.

Ans. to int. 5th. To the best of my knowledge, said Richard Christmas has been a resident of the State of Mississippi since 1836 or 1837.

Ans. to int. 6th. To the best of my knowledge he has.

Ans. to int. 7th. I am a lawyer, residing and practising my profession in the State of Mississippi, at Vicksburg. The said note, under the laws of the State of Mississippi, would be barred by our statute of limitations in six years after its maturity, and a recovery thereon would be barred in that time; to sustain this opinion I refer to the Code of Mississippi, by A. Hutchinson, chapter 57, article 1, page 828: "An act for the limitation of actions, and certain proceedings in civil actions, and to prevent frivolous and vexatious suits, passed June 7, 1822." The 4th section of that act was in force until the year 1844, and under it the recovery, on said note, would be completely barred in the time above named. On the 24th of February 1844, see same book, same chapter, article 6, page 829, "An Act to amend the several acts of limitations was passed." By the fourth section of that act (see page 830) actions on promissory notes and bills of exchange, shall be commenced and prosecuted within six years after the right of action shall have accrued. This act went into force from and after its passage. Whether the act of June 7th, 1822, fixed the limitation as above stated or not, unless said note was sued on within six years after the 24th day of February, 1844, the right to recover thereon would be completely barred, unless said

Christmas promised in writing to pay the same, and signed said written promise, or it be proved that the very claim sued on was presented to him, and acknowledged to be due and unpaid. See same act, sect. 16, page 832. That the legislature may pass an act of limitations, which shall apply to causes of action existing before its passage, and at the time thereof, allowing some reasonable time in which suits may be brought, and without cutting off all remedy thereon. I refer to the case of the West Feliciana Railroad Company against Stocket, reported in 13 Smedes & Marshall's Reports, page 395.

Answer to cross-interrogatory 1st. I do not know.

Ans. to cross-int. 2d. I do not know.

Ans. to cross-int. 3d. I do not know.

Ans. to cross-int. 4th. I do not know.

Ans. to cross-int. 5th. I do not know.

Ans. to cross-int. 6th. I do not know.

Ans. to cross-int 7th. I cannot say whether he is insolvent or not.

Ans. to cross-int. 8th. There is no saving in the Mississippi Statute of Limitations, as to non-resident holders of bills, notes, &c., and none where the parties owing them are insolvent.

Ans. to int. 9th. The Mississippi law does not attempt to make a limitation affecting contracts to be performed elsewhere than in that State.

Ans. to int. 10th. I know nothing about it.

Ans. to 11th int. I know nothing about it.

Ans. to int. 12th. I know nothing about it.

Ans. to int. 13th. I never had any conversation with said Coleman about said note.

And further deponent saith not.

A. K. SMEDES.

Also, the deposition of R. W. Burney, taken on the 18th day of March, 1854, to be read on behalf of defendant, R. Christmas, to wit:

Answer to interrogatory 1st. I know Richard Christmas and Wilson; and have known said Christmas intimately for fifteen or twenty years.

Ans. to int. 2d. I know the handwriting of Richard Christmas, and do not think that the signature to the note is the signature of Richard Christmas. I am very familiar with the handwriting of Richard Christmas, and have been for the last fifteen years.

Ans. to int. 3d. I do not know.

Ans. to int. 4th. I do not know.

Ans. to int. 5th. At the date of said note, said Christmas resided on his plantation, on the Yazoo river, in this State; and he has resided from that time to the present in Mississippi.

Ans. to int. 6th. He has.

Ans. to int. 7th. I am not a lawyer, and do not know.

Ans. to cross-int. 1st. I do not know.

Ans. to cross-int. 2d. I do not know.

Ans. to cross-int. 3d. I do not know any such firm.

Ans. to int. 4th cross. I know nothing about it.

Ans. to int. 5th cross. I know nothing of the arrangement. I have understood that W. A. Wilson is dead, and that H. Christmas is dead. T. H. Christmas resides, I believe, in Bolivar county, Mississippi. As to Allen, I do not know. I do not know that Richard Christmas ever was a partner of any firm in New Orleans.

Ans. to int. 6th. I know that said Wilson was captain of the boat, but do not know who placed him there.

Ans. to int. 7th. Said Richard Christmas was in possession of a good deal of property at that time, and has been since; but whether he is insolvent or not, I do not know.

Ans. to int. 8th. I do not know.

Ans. to int. 9th. I do not know.

Ans. to int. 10th. I do not know that he has, or was, and never knew him to be engaged in steamboating.

Ans. to int. 11th. I know nothing about it.

Ans. to int. 12th. I was not, and did not, and never saw said note before to-day.

Ans. to int. 13th. I was present at Vicksburg, some time in the winter of 1853, and heard a conversation between Richard Christmas and Nicholas D. Coleman, respecting a note he, Coleman, as attorney, held against said Christmas as surety for W. A. Wilson. Christmas requested to see the note, and stated that he was sued on it, in Kentucky. But the note was not filed with that suit; that he had plead *non est factum*, also the statute of limitations to said suit, believing he had never signed said note. But to get rid of the expense of a trouble of a lawsuit, he would give said Coleman two hundred and fifty dollars to be released from said lawsuit or note, said Christmas believing that he was not bound thereon. Said Christmas stating at the time, that the proposition was not to be construed as an acknowledgment of any liability on account of said note, or any waiver at law of his remedy against the same, Mr. Coleman remarked that he had sent the note to Kentucky, and was sorry he, Christmas, had not seen it before he sent it, as he, Coleman, had no authority to compromise the matter, even if he had then the note. This is my best recollection of said conversation, as it then occurred.

And further deponent saith not.

R. W. BURNEY.

Also the deposition of Samuel Nelson, taken on the 22d day of March, 1854, on behalf of defendant, Richard Christmas.

Answer to interrogatory 1st. I have known Richard Christmas since the year 1838; and intimately since 1842. But do not know the other parties.

Ans. to int. 2d. I have carefully examined the note referred to, and from my knowledge of his signature, having had frequent correspondence with said Richard Christmas, for the last twelve years, I do not think the signatures to said note the signature of Richard Christmas.

Ans. to int. 3d. I know nothing of the whereabouts of Richard Christmas, at that date.

Ans. to int. 4th. I do not know.

Ans. to int. 5th. I cannot speak positively, as regards the evidence of said Richard Christmas, at that time, although I was personally acquainted with him. I know that he resided on the Yazoo river, in 1841, and removed to the Mississippi river in January, 1842, where he has resided ever since.

Ans. to int. 6th. He has.

Ans. to int. 7th. I am no lawyer, and know nothing on that subject.

Ans. to int. 8th. I know no other facts that I deem material to the case.

Ans. to cross-int. 1st. I do not know.

Ans. to cross-int. 2d. I know nothing about it.

Ans. to cross-int. 3d. I am not aware of the existence of any such firm.

Ans. to cross-int. 4th. I do not know anything about it.

Ans. to cross-int. 5th. I do not know.

Ans. to cross-int. 6th. I know nothing about it.

Ans. to cross-int. 7th. I know nothing of his solvency or insolvency; he is and has been in possession of a large amount of property in my neighborhood.

Ans. to cross-int. 8th. I know nothing about it.

Ans. to cross-int. 9th. I do not know.

Ans. to cross-int. 10th. I do not know.

Ans. to cross-int. 11th. I know nothing about it.

Ans. to cross-int. 12th. I know nothing about it.

Ans. to cross-int. 13th. I never had any conversations with said Coleman in relation to said note.

And further this deponent saith not.

SAMUEL NELSON.

Also the deposition of D. W. C. Bonham, taken on 22d March, 1854, to be read on behalf of defendants.

Answer to interrogatory 1st. I knew Richard Christmas, and none of the other parties to this suit. I have known him since forty-two, and intimately since forty-five, with frequent business correspondence and transactions, which would make me familiar with his signature.

Int. 2d. On a careful examination of the note referred to, I have no hesitation on saying that, from my knowledge of his signature, I do not believe it is his.

Int. 3d. I know nothing of Richard Christmas at that date, as our acquaintance dates from forty-two, or three.

Int. 4th. I know nothing in answer to this.

Int. 5th. I cannot speak as to his residence at that time; since on the Yazoo and Mississippi rivers.

Int. 6th. He has since I have known him.

Int. 7th. I am a lawyer in Mississippi, but have not practised for years, and am not conversant with the statute of limitations.

Int. 8th. I know no other facts material.

Answer to cross-interrogatory 1st. I do not know.

Cross-int. 2d. I know nothing relative to the transaction.

Cross-int. 3d. I know nothing of the existence of such a firm.

Cross-int. 4th. I do not.

Cross-int. 5th. I know nothing relative to this question.

Cross-int. 6th. I know nothing about the matter.

Cross-int. 7th. I know not as to his solvency, or insolvency; he is in possession of a large amount of property in my neighborhood.

Cross-int. 8th. I do not know.

Cross-int. 9th. I do not know.

Cross-int. 10th. I do not.

Cross-int. 11th. I know nothing in answer to this.

Cross-int. 12th. I was not, never having heard of the note, or the suit, until to-day, when requested to make the deposition.

Cross-int. 13th. I have never had any to the matter.

And further saith not.

D. W. C. BONHAM.

Also the deposition of Duff Green, taken on the 4th day of April, 1854, on part of defendants.

Answer to interrogatory 1st. I know Richard Christmas, and have known him since 1850. I was clerk for William P. Swiney, with whom said Christmas transacted business, up to the time of the death of said Swiney, since which time he has done business with me.

Ans. to int. 2d. I have carefully examined the note annexed, and having frequently seen the signature of Richard Christmas to bonds, mortgages, deeds of trust, and letters, I think the signature of R. Christmas to said note is not in the handwriting of Richard Christmas.

Ans. to int. 3d. I know nothing about it.

Ans. to int. 4th. I know nothing about it.

Ans. to int. 5th. Said Richard Christmas has resided on his plantation, on the Mississippi river, above Vicksburg, since my first acquaintance with him.

Ans. to int. 6th. All I know in answer to this is contained in my answer to interrogatory 5th.

Ans. to int. 7th. I am not a lawyer, and do not know.

Ans. to int. 8th. I know of no other facts.

Answer to cross-interrogatory 1st. I do not know in whose handwriting the signature of R. Christmas to said note is in. I do not know what connection in business said party had who signed said note.

Ans. to cross-int. 2d. I know nothing about it.

Ans. to cross-int. 3d. I know nothing about it.

Ans. to cross-int. 4th. I know nothing about it.

Ans. to cross-int. 5th. W. A. Wilson, I think, resides in New Orleans; T. H. Christmas resides in Bolivar county, Mississippi, but I do not know that they were ever connected in business with Richard Christmas.

Ans. to cross-int. 6th. I know nothing about it.

Ans. to cross-int. 7th. I do not know whether Richard Christmas is insolvent or not. In all the transactions of his, with which I have been familiar, he has always been punctual.

Ans. to cross-int. 8th. I know nothing about it.

Ans. to cross-int. 9th. I know nothing about it.

Ans. to cross-int. 10th. I know nothing about it.

Ans. to cross-int. 11th. I know nothing about it.

Ans. to cross-int. 12th. I was not, and did not.

Ans. to cross-int. 13th. I never had any conversation with said Coleman in relation to said note.

DUFF GREEN.

And at a court continued and held as aforesaid, on the 6th day of June, 1855, came the plaintiff, by his attorney, and moved the court for a new trial herein, upon the following grounds, assigned and filed by him, to wit:

1st. Because the court erred in refusing to give the jury instructions Nos. 3, 4, and 5, as asked for by the plaintiff.

2d. Because the verdict is contrary to the evidence and the law.

BARRETT & WOOD,
Attorneys for the Plaintiff.

And said motion is laid over to some future day of the term for hearing.

And at a court continued and held as aforesaid, on the 18th June, 1855, came the parties, by their attorneys, and the motion for a new trial herein being argued, and the court, being advised, orders that said motion for a new trial be overruled, to which plaintiff excepted.

And at a court continued and held as aforesaid, on the 7th No-

vember, 1856, "came the plaintiff by his attorney and filed the opinion of the honorable the Court of Appeals, the mandatory part whereof is as follows." "It is therefore considered that said judgment be reversed, and cause remanded for a new trial, and other proceedings conformable hereto, which is ordered to be certified to said court." A copy.

Teste, J. SWIGERT,
C. C. A.

It is therefore ordered that a new trial be granted the plaintiff.

And at a court continued, &c., on the 7th November, 1857, "came the parties, by their attorneys, and then came the plaintiff, Thomas N. Lindsay, and moved the court to grant him a continuance herein until the next term of this court, upon affidavit filed, and on motion all further proceedings are continued.

The following is the affidavit referred to, to wit: Thomas N. Lindsay states that the plaintiff are not ready for trial. The plaintiff have been diligently seeking to find some of the officers and crew of steamer Rodolph, at the time she was attached by plaintiffs at New Orleans. As shown by the record filed with defendant's answer, most of them are dead. Recently this affiant, through a correspondent with his brother, L. Lindsay, who resides at Vicksburg, learned that a man by the name of Kelly, who is running on a boat from Vicksburg up the Yazoo, was the carpenter of the Rodolph when she was attached, and would prove that said boat was largely indebted to her officers and crew, and that it took the full amount of the sale money to pay costs, her officers, and crew, whose claims had preference over the claim of plaintiff, on which the attachment issued. Said Kelly will also prove that Richard Christmas was frequently on the steamboat, shortly before she was attached, acting as an owner, helping himself to money out of the drawer, and doing other acts as one interested in said boat, and that said Kelly's statements will be true. He further states, that he sent interrogatories to be crossed by the counsel of Christmas, in consequence of the shortness of time and uncertainty of obtaining the deposition of Kelly, after he learned where Kelly was, but was advised by W. F. Barrett, Esq., that the counsel of Christmas would not consent to cross-interrogatories, and in consequence he sent a notice, served to take the deposition, at Vicksburg, but said deposition has not been returned, and he fears has not been taken, from the shortness of the time. He is also advised by the brother of W. F. Barrett, who is the only counsel for plaintiff, that said Barrett is not able to attend to business, owing to his indisposition, and may not be able to so, at this term.

Affiant does not ask continuance for delay, but to have fair trial. He knows no one but Kelly by whom he can prove the facts stated

which he is advised are material to the plaintiff's cause. He states further, that he came to Louisville to attend to the case with Mr. Barrett, but is constrained to return home this afternoon, to get to Owen Circuit Court, which commences Monday next, and it would be very inconvenient to be here on next week, he being counsel in several cases there set early in the week. He states further, that he knows the plaintiffs have been relying on Mr. Barret's attending to said case, and believes they are not aware of his indisposition, which affiant was not advised of until he arrived here; he has not been able to find any other of the crew but Kelly.

TH. N. LINDSAY.

Sworn to, &c., November 7th, 1857.

In court, 9th Nov. 1857, came the parties by, &c., and the defendant, Richard Christmas, on his motion, the 2d parab. of his answer is stricken out. Wherefore, to try the issue joined, let a jury come; and thereupon came a jury, to wit:

Jesse Bayles, and Richard Taylor, Wm. Hardin, Jno. M. Winter, J. G. Dodge, A. D. Mansfield, James L. Brown, Charles Woolford, Jno. Newkird, R. Burge, Hugh Curry, George W. McKinney, who being, &c.; and there not being sufficient time to finish this case on to-day, all further proceedings are continued until to-morrow.

And on the 11th November, 1857, came, &c., and the jury impanelled and sworn herein again appeared in the jury-box, and having heard the evidence and argument of counsel, upon oath, returned into court the following verdict, to wit: "We, the jury, find for the plaintiff $5634 13, with interest from March 1, 1841.

RD. H. TAYLOR,
Foreman.

It is therefore considered by the court, that the plaintiffs recover of the defendant, Rd. Christmas, the sum of $5634 13, with interest thereon, at the rate of 6 per ct. per annum, from the 1st day of March, 1841, until paid, and also his costs herein expended, and may have ex'on, &c.

And on the 12th November, 1857, came the defendant, Rd. Christmas, and moved the court to set aside the judgment herein, and grant him a new trial upon the following grounds, in writing filed, and supported by the written affidavit of W. S. Bodley, attorney for defendant, also filed, to wit:

1st. The verdict is against law and evidence.

2d. The defendant was surprised by the evidence of Mrs. Wales.

3d. The verdict was for an excessive sum, and because there is error in the assessment of the amount of recovery.

W. S. BODLEY,
P. d.

And said motion is laid over to some future day of the term for hearing.

Bill of Exceptions.

And on the 27th February, 1858, came again the parties, by their attorneys, and the motion for a new trial herein being argued, and the court being advised, ordered, that said motion for a new trial be overruled, and then the defendant, Christmas, prayed an appeal from the judgment rendered herein to the Hon'l the Court of Appeals, which is granted him, and also filed his bill of exceptions herein, which, being signed and sealed by the court, is ordered to be made part of the record and proceedings herein.

Bill of Exceptions.

Be it remembered, that on the trial of this action, the plaintiff read in evidence the answer of defendant Christmas to amend petition and interrogatories. Also the deposition of N. D. Coleman, H. J. Todd, S. Steele, and Jno. A. Holton, and then introduced Mrs. —— Wales, who being sworn, testified, that she was the wife of Wm. A. Wilson, commander of the st'r Rodolph; in January, 1840, she went to join her husband. After arriving on the boat at New Orleans, the defendant Rd. Christmas came into the ladies' cabin with said Wilson, and urged him to take, in his, said Wilson's, name, the ownership of said steamboat Rodolph, and hold her for said Christmas and for said Christmas's benefit; the reason given was that the boat would otherwise be attached; said Wilson objected, and said Christmas told him he would save him harmless, and would increase his wages as captain to $150, and then to $200 a month; his wages were then $125 a month. That she was writing at the table and distinctly heard the conversation, and none but those three persons were present, except that the chambermaid may have been near. Christmas and Wilson then went forward towards the clerk's room, and exchanged some papers; until that time she had supposed her husband owned the boat. She had married him in the spring of 1839; he had no property, and was dependent upon his wages. The conversation between Christmas and Wilson was in the latter part of January, 1840. Witness well remembered the date, because she left Louisville in December, 1839, to join her husband, and had been detained in the ice. The conversation occurred just after she got to New Orleans, and when she had seated herself to write her first letter to her mother. The conversation itself and the manner and concern of her husband made a deep impression on her. He said that the thing looked deceitful and hypocritical, and he did not want to have anything to do with it; he was cautious about going in debt. She could not remember how long she remained on the boat, but she well remembered that the boat was attached "Mardi Gras" day

(Shrove Tuesday), when she left and came up the river on another boat. Wilson did take the boat in his own name, though he was not the owner of her, or any part of her. Before the conversation between R. Christmas and Wilson, she did not know Christmas, but is certain it was he, because she afterwards saw him on the boat (Rodolph), at New Orleans, Vicksburg, and Natchez, and he went on the boat and received money in the same way as the owner of the boat would do, and acted as owner.

After this evidence was given, the defendant's counsel asked for a continuance, stating, as on oath (which was dispensed with by the opposite counsel), that he was totally surprised by the testimony of Mrs. Wales; had no idea she would be introduced, or such statements made; that he was instructed as to this matter by his client, who was in Mississippi, but believed he could disprove or impair the testimony of said witness, and would do so if a continuance were granted. Said motion was overruled by the court, to which the counsel for defendant excepted at the time, and now excepts, reserving the right to have his further exceptions embodied and signed hereafter, and this is certified as a bill of exceptions accordingly.

W. F. BULLOCK.

Affidavit of Bodley, referred to.

Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

Wm. S. Bodley states on oath that he was defendant's counsel on the trial, and from the commencement of the suit, and was surprised by the testimony of Mrs. Wales; he had never heard of such testimony, or statements, and the witness was not mentioned or known by him to have been summoned or relied on as a witness until she was present at the trial. He believes that her evidence can be counteracted or impaired. It was important. The defendant was absent, and still is in Mississippi, as affiant believes.

Sworn to, &c., by

WM. S. BODLEY.

Nov. 12, 1857.

And, on the 24th Nov. 1857, came the defendant, Rd. Christmas, and filed his affidavit herein, appertaining to the motion for a new trial, now pending in this cause.

Affidavit of Richard Christmas.

Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

The defendant, R. Christmas, states on oath, that at the time of the trial (November, 1857), he was at his residence in the State of Mississippi, where, on the 5th inst., he received the first information of the trial, and a request from his counsel to come up immediately. In a few hours I started for Louisville, and arrived here on the 20th inst. Before his arrival he did not know, nor was he advised that it was necessary to procure affidavits, nor what to prove, nor what had been deposed to on the trial, nor had he time to get the affidavits. Since his arrival he has learned that a Mrs. Wales testified at the trial to a conversation in January, 1840, at New Orleans, on the steamboat Rodolph, between this affiant and William A. Wilson, captain of said boat, *captain of said boat*, and the husband (now deceased) of said witness, to the effect that affiant urged said Wilson to take the ownership of said boat in his (said Wilson's) name, and hold her for affiant's benefit, and that on Wilson objecting, affiant offered to save him from loss, and to increase his wages as captain.

This affiant states positively that no such consideration, or anything like it ever took place there or elsewhere, at any time; that Wilson really bought the boat for himself and not for affiant, was never asked to buy it for affiant, *was never asked to buy it for affiant*, but was indebted at the time of his death to affiant for a part of the price.

Affiant further states, that he was not in New Orleans nor near it, at the time of the alleged consideration, nor within a month before or after said time, and that affiant can establish this statement by the testimony of persons, who well knew his residence and movements about the time referred to. Amongst them he knows the following, Alfred M. Young of Madison parish, Louisiana, Thomas H. Christmas of Bolivar county, Mississippi, Margaret Allen and Mary Allen of New Orleans; also, Alexander Allen of Point Coupe parish, Louisiana, A. Burwell and A. K. Smedes of Vicksburg, Mississippi, and B. D. Smith and Harriet Smith of Williamson county, Tennessee, by several of whom he can prove the above statements.

This affiant for the reasons above stated, cannot now produce their affidavits, but expects to procure them and file them, by the next term of the court if it be allowed him.

This affiant further states, that he was in the habit of writing letters and orders, some of which have been preserved by the persons addressed, and will be produced and filed at the next term, and will

show that during all the time referred to by the witness, this affiant was not in or near New Orleans; the same fact will also be shown by the testimony of said Allens and Smiths, to the fact that he was at the time of the alleged conversation, engaged earnestly and for several weeks or months in negotiating a large trade, and the exact time of consummating it will be fixed, by reference to a mortgage from W. B. Norflett and affiant to H. and T. H. Christmas, and will refresh the memory of witnesses, so as to enable them to speak positively of his being in the counties of Madison, where the trade was made, and in and near the county of Warren, where he resided during all the time referred to in said pretended conversation. Said mortgage was made early in 1840, and is recorded in said county of Madison.

This affiant states, that he expects to obtain said letters, orders, copies of the mortgage, and other documents and evidence of other witnesses, to the fact that he was not at New Orleans or near it, at or about the time testified to by the witnesses, and exhibit to the court at the next term, abundant evidence, documentary and by affidavit, to establish his statement. So far as affiant knows or believes, there is no person nearer than Tennessee, who can prove the same fact, and neither the affidavit nor written evidence can be now produced. For that purpose, he asks a continuance of the motion he has made for a new trial.

This affidavit is not made for delay, but to obtain justice and a fair trial. He further states, that he was and is surprised at the testimony of said witness Wales. He had no reason to suspect that she would be a witness on the trial, nor that she would testify as she did. Her testimony was absolutely false, and he is informed and believes, was greatly prejudicial to his defence. He expects to succeed in his defence herein, if she should so testify again. This affiant expects to discredit entirely the testimony of said witness Wales.

R. CHRISTMAS.

Sworn to, &c., 23d November, 1857, before

H. C. PURDELL,
N. P. J. C., Ky.

The following are the exhibits referred to in the amended bill of exceptions (on the 155 page).

State of Louisiana, 4th District Court of New Orleans, late Commercial Court.

WM. T. McCORMICK
v.
W. A. WILSON. } No. 3635.

Transcript of Record.

Affidavit filed 24th February, 1841.

Personally appeared William T. McCormick, who being sworn, says: W. A. Wilson, owner of steamboat Rodolph, is justly indebted to him in the sum of $855 94, exclusive of interest, and which is now due for services as mate on board said steamer Rodolph, and that the said W. A. Wilson resides permanently out of the State of Louisiana. He therefore asks an attachment against the steamer Rodolph, the property of said Wilson.

(Signed) WM. T. McCORMICK.

Sworn to and subscribed before me, this 24th February, 1841.

(Signed) PE. DEVERGES,
Deputy Clerk.

Order.

Let an attachment issue as within prayed for, on affiant's giving bond, with T. B. Smith as security, in the sum of $1500, conditioned as the law directs.

(Signed) P. DEVERGES,
D. C.

NEW ORLEANS, 24 February, 1841.

Bond.

Know all men by these presents, that we, William T. McCormick and T. B. Smith, of the city of New Orleans and State of Louisiana, are held and firmly bound unto W. A. Wilson, in the sum of $1500, lawful money of the United States of America, to be paid to the said W. A. Wilson, his heirs, executors, administrators, and assigns, for the payment well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators firmly by these presents. Sealed with our seals, and dated the 24th February, A. D. 1841.

Whereas William T. McCormick has this day presented an affidavit to the Honorable, the Commercial Court of New Orleans, praying an attachment against the property of W. A. Wilson. Now the condition of the above obligation is such, that we, the above bound William T. McCormick and T. B. Smith, will well and truly pay to the said W. A. Wilson, the defendants in said attachment, all such

damages as he may recover against us, in case it shall be decided that the attachment was wrongfully obtained.

(Signed) WM. T. McCORMICK, [L. S.]
(Signed) T. B. SMITH.

Attachment.

Commercial Court of New Orleans, Louisiana.

To the sheriff of the parish of Orleans, greeting.

Whereas due proof has been made before the Commercial Court of New Orleans, by William T. McCormick, that W. A. Wilson is indebted to him in the sum of $855 94, and that the said Wilson resides permanently out of the State of Louisiana. Now, therefore, you are commanded in the name of the State of Louisiana, and of the Commercial Court of New Orleans, to seize and attach, according to law, and take into your possession, the goods and chattels, lands and tenements, rights and moneys, and effects and credits of the said Wilson, if any you find, in the said parish, to the amount of what will suffice to discharge the said debt and costs of suit, and that you give notice of this proceeding by leaving a copy thereof in the French and English languages, at the last place of abode of the said defendant, if in said parish, and causing a true copy thereof to be affixed at the door of the parish church of said parish, and make return of this writ, and indorse thereon the manner in which you have executed it, before our court, on or before the 4th Monday in March, A. D. 1841.

(Signed) PE. DEVERGES,
Deputy Clerk.

CLERK'S OFFICE, 24th February, 1841.

Sheriff's Return.

Received 24th February, 1841. Seized the steamboat Rodolph, her furniture, machinery, &c., and the defendant herein stated residing out of the State of Louisiana, I posted citation and attachment to the door of the church of St. Louis of Orleans, in New Orleans, and to that of the room in which this honorable court is held, and executed this writ in all things as the law directs. No other property found. Returned 4th March, 1841.

(Signed) M. CRUZOT,
Deputy Sheriff.

Petition, filed 25th February, 1841.

To the Hon. Charles Watts, the judge of the Commercial Court of New Orleans:

The petition of Wm. T. McCormick, who resides in New Orleans,

respectfully shows, that W. A. Wilson, owner of steamboat Rodolph, a boat engaged in carrying personal property for *hire*, who resides in Mississippi, is justly and truly indebted unto petitioner in the full sum of $855 94 for services as mate, at the rate of $100 per month, on board the steamboat Rodolph, and interest at the rate of five per cent. per annum on $617, from November 27th, 1840, and on $238 92 from the 22d February, 1841, for this, to wit, that petitioner is holder and owner of two certain promissory notes, one for the sum of $617, the other for the sum of $238 92, each drawn by Charles B. Shain, clerk of said steamboat, and thereunto duly authorized by the said W. A. Wilson, in which he acknowledges that the amounts set forth are due your petitioner for services as mate on board said boat; the first dated at New Orleans, on the 27th day of November, 1840, due on that day; the second dated at New Orleans, 22d February, 1841, due on that day and year. Petitioner avers, that he has a privilege on the said Rodolph for the amount due him for his services as aforesaid, all which will more fully appear by reference to the said notes, which are hereunto annexed for reference and made part of petition. Petitioner further alleges, that the said W. A. Wilson, although thereunto amicably requested, refuses to pay the amount for which he is indebted as aforesaid. Petitioner shows, that an order of attachment has already issued upon affidavit filed. Petitioner therefore prays, that said W. A. Wilson be cited to appear and answer this petition, and that after due proceedings he be condemned to pay the petitioner the aforesaid sum of $855 94, with interest as aforesaid from the date aforesaid, and costs of suit. And petitioner asks for all general and equitable relief, and that the steamboat Rodolph be sold, and petitioner paid by privilege out of the proceeds thereof.

(Signed) C. M. JONES,
For Petitioner.

Note annexed to Petition.

$617 02.

Due Wm. T. McCormick $617 02 for services as mate.

(Signed) CHAS. B. SHAIN,
Clerk for steamboat Rodolph and owner.

New Orleans, November 27th, 1840.

$238 92.

Due Wm. T. McCormick $238 92 for services as mate, up to this date.

(Signed) CHAS. B. SHAIN,
Clerk for steamboat Rodolph and owner.

New Orleans, February 22d, 1841.

Citation.

State of Louisiana, Commercial Court of New Orleans.

Mr. W. A. Wilson, residing in Mississippi:

You are hereby summoned to comply with the demand contained in the petition, of which a copy accompany this citation, or deliver your answer to the same in the office of the Commercial Court of New Orleans, in the city of New Orleans, in ten days after the service hereof.

Witness, the Hon. Chas. Watts, judge of the said court, 25th February, in the year of our Lord 1841.

(Signed) PE. DEVERGES,
Deputy Clerk.

The following is the return of the sheriff upon the citation which issued, viz.:

Received 25th February, 1841, and on the 26th served petition and citation on W. A. Wilson, in person. Returned 26th February, 1841.

(Signed) M. COUZET,
Deputy Sheriff.

Intervention of Trimbell & Co.

Filed March 8th, 1841.

McCormick
v.
Wilson.

To the Hon. the Judge of Commercial Court of New Orleans:

The intervention of John Tribell & Co., residing in New Orleans, shows, that by virtue of a writ of attachment issued in above suit, the steamboat Rodolph has been seized.

Your petitioners show, that they *haved lien* privilege on the *S. B.* Rodolph for work and labor done and material furnished, amounting to $35, as appears by annexed account. They therefore pray that McCormick plaintiff, and W. A. Wilson may be cited to appear and answer this petition, and after due proceedings, that Wilson be condmend to pay petitioners $35 and costs, that the *S. B.* be sold, and your petitioner paid by preference and privilege from *proceed* of same, and for general relief, &c.

(Signed) F. HAYNE,
By his Attorney.

Account.

NEW ORLEANS, February 26th, 1841.

Steamer Rodolph and Owners. Dr.

John Tribell & Co., Cr.

Jan'y 23.	Pieceing steam pipe and caseing on each end, .	$28 00
" 23.	do pipe for heater, ...	1 50
" 23.	Repairing connecting pipe for joint in steam pipe,	1 00
Feb'y 5.	Washing joint or supply pipe, ...	2 00
23.	Glazing lamp, and extra glasses, . . .	2 50
	Received payment, ...	$35 00

The following is the sheriff's return of citation which issued to W. A. Wilson:

Rec'd, March 8, 41, and on the 11th inst., served copy of petition of intervention on defendant, in person. Returned 11 March, 1841.

(Signed) L. A. DUCOS,
Deputy Sheriff.

Intervention of T. B. Winston, filed 8th March, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans.

The petition of Thomas B. Winston, who resides in New Orleans, respectfully shows, that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $300 41, with interest, for supplies, &c., furnished said boat within 60 days previous to the 23d February, 1841, for the payment of which they aver they have a privilege upon said boat. The amount of their claim, and its nature, more fully appears by reference to their account, annexed.

Petitioner avers that William T. McCormick has attached in this honorable court the said steamer, in the suit of William T. McCormick *v.* W. A. Wilson, claiming a privilege on said boat for the amount of his wages as mate. Wherefore, and by reason of premises, petitioner asks to be allowed to intervene in said suit, that both William T. McCormick and W. A. Wilson be served with a copy of this his petition of intervention, and that, after due proceedings had, he have judgment against said Wilson, with privilege on said steamer Rodolph for the amount of his claim, $300 41, with interests, costs, general relief, &c.

(Signed) C. N. JONES,
For T. B. WINSTON.

Account annexed to Petition of Intervention.

NEW ORLEANS, Feb. 24, 1841.

Owners of Steamer Rodolph,

Bought of Tho. B. Winston.

1840.			
Nov. 1.	To bill stores rendered,	$113 12	
" 12.	" " "	50 19	
" 27.	" " "	90 96	
" "	" " " A. W. Wilson,	39 35	
			$293 62
	Cr.		
Dec. 10.	By cash,	100 00	
" 24.	" "	100 00	
			200 00
			93 62
	Dr.		
Dec. 8.	To bill stores rendered,	113 50	
1841.	Cr.		
June 6.	By cash,	100 00	
			13 50
	Dr.		
Dec. 23.	To bill stores rendered,	115 51	115 51
			222 63
	Cr.		
Feb. 10.	By cash,		100 00
			122 63
Jan. 6.	To bill stores rendered,	90 01	
Feb. 10.	" " "	86 77	
			177 78
			300 41

Service accepted.

(Signed) W. A. WILSON,
W. T. McCORMICK.

Intervention of Hill & Relf, filed 8th March, 1841.

To the honorable the Judge of the Commercial Court of New Orleans.

The petition of Hill & Relf, merchants and partners, residing in New Orleans, respectively shows, that the steamer Rodolph, and W. A. Wilson, owner thereof, are justly indebted to them in the sum of

$297 40, with interest, for supplies, furniture, &c., sold by them to the steamer Rodolph, within sixty days previous to the 24th February, 1841; all which more fully appears by an account of the articles furnished, annexed to this petition, for reference; and for which supplies, materials, &c., petitioners aver they have a privilege on said boat.

Petitioners show that William T. McCormick has attached said boat, which is now lying in the port of Orleans, for his wages as mate, ordering that he has a privilege thereon, the suit being Wm. T. McCormick *v.* W. A. Wilson, in this honorable court. Wherefore, by virtue of premises, petitioners pray that they may be allowed to intervene in said suit, that both William T. McCormick, the plaintiff, and W. A. Wilson, be served with a copy of this their petition of intervention, and that, after due proceedings had, there be judgment in their favor against said Wilson, with privilege on the steamer Rodolph for the sum of $297 40, with interest, costs, &c., general relief, &c.

(Signed) C. M. JONES,
For HILL & RALF.

Account referred to.

Steamer Rodolph,
Bought of Hill & Relf.

Dec.	29.	To 1 coil rope, 409 at 15c.,	61 35
		1 ball twine, 3c.,	38
		2 bars, 28 feet, at 14c.,	3 92
		9 gals. sperm oil,	13 50
		5 lbs. rivets, at 21c.,	1 25
		61 " packg. yarn, 16,	9 76
		12 " cot. rope, at 13c.,	4 50
		1 " wrt. nails, 2,	25
		1 gal. sperm oil, 11c.,	12 37
		4 " coal tar, 4c.,	2 00
		1 saucepan, 6; 12 at 10,	4 25
		2 padlocks, at 2,	50
		1 W tacks, at 1,	13
1841.			
January	2.	2 files, 7c.; 1 sheet paper, 2,	2 00
		½ doz. brooms, 20c.,	1 25
		1 ball lampwick, 2,	25
	4.	2 files, at 6c.,	1 50
	5.	8 gals. S. oil, 11,	11 00
		10 lbs cut nails, 10,	1 00
		4 grate bars, 256 lbs., 4½,	11 62
		drayage, 2,	25
	19.	9 gals. S. oil, 11,	12 38

21.	3 tin candlesticks, 2, ...	75
22.	2 emery, 2; 1 pump-box, 16c., . .	2 50
	1 cook-knife, 6; 1 hatchet, 10, . .	2 00
	6 scrub brushes, 3c., ...	2 25
	24 lbs pig lead, 7, ...	1 68
23.	1 yard cot. duck, 30, ...	30
	3 sheets gargart paper, 2, . . .	75
	20 lbs. pressed spikes, 14, . . .	2 80
	2 oars, 28 feet, at 1, ...	3 50
	9 lbs. tarred rope, 15c., . . .	1 35
February 5.	11 S. oil, 11c., ...	15 13
6.	94 lbs. tin plate iron, 8, . . .	7 52
	122 " sq., 10, ...	12 20
	62 " packg. yarn, 16, . . .	9 92
	3¾ " spun " 16c., . . .	60
8.	4 gals. coal tar, 4c., ...	2 00
	12 lbs. cut nails, 10, ...	1 20
9.	32 " rope, 15, ...	4 80
	1 monkey wrench, 20, ...	2 50
10.	16 lbs. tarred rope, 15c., . . .	2 40
11.	1 buck-saw, 12, ...	1 50
	1 padlock, 4, ...	50
22.	7 grate-boxes, 448 lbs., 4½, . .	20 16
	1 keg W. lead, 24, ...	3 00
	2 gals. paint oil, 10c., . . .	2 50
	1 bot. turpentine, 2, ...	25
	5 lbs. green paint, 6c., . . .	3 75
23.	½ lb. chrome yellow, ...	37
	1 keg W. lead, 3c., ...	3 00
	1 bot. tupte., 2, ...	25
	1 ball lampwick, 2, ...	25
	2½ gals. S. oil, 11, ...	3 44
	1½ dozen buckets, 10.50, . . .	5 25
	paper vermillion, 2, ...	25
	1 qt. copal varnish, 8c., . . .	1 00
	1 hand pencil, 1, ...	12
	2 sash tools, 1, ...	25
		277 40
Feb'y. 24.	1 kettle, ...	20 00
		$297 00

Service accepted.

(Signed) W. A. WILSON,
(Signed) W. T. McCORMICK.

Intervention of A. Sylvia, filed March 8th, 1841.

To the honorable, the judge of the Commercial Court of New Orleans:

The petition of Abrm. Sylvia respectfully shows that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $40, for wages as steward on said boat, during the thirty days ending on the 22d February, 1841, for the payment of which he has a privilege on said boat. The account is annexed to petition for reference.

Petitioner shows that Wm. T. McCormick has attached said steamer in this honorable court, in the suit of McCormick *v.* W. A. Wilson, claiming a privilege for his services as mate on said boat.

Wherefore and by reason of premises, petitioner prays to be allowed to intervene in said suit, that each party be served with a copy of the petition, and that after due proceedings had, we have judgment against said Wilson for the amount of his claim, with privilege and general relief, &c.

(Signed) C. M. JONES,
For Petitioner.

Account.

Steamer Rodolph, and owners, Dr.

To Abram Sylvia.

Feb'y 22. To services for 1 month, as steward, . . $40 00

(Signed) W. A. WILSON,
(Signed) WM. T. McCORMICK.

Intervention of G. A. Jouett, filed 8th March, 1841.

To the honorable, the judge of the Commercial Court of New Orleans:

The petition of George A. Jouett respectfully shows that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $260 80, for services as pilot on board of said boat, at the rate of $100 per month, up to and the month previous to the 23d February, 1841, all which will more fully appear by his account annexed to this petition, for reference, and for the payment of which he avers he has a privilege on said boat.

Petitioner avers that Wm. T. McCormick has attached the said boat in this honorable court, in the suit of McCormick *v.* W. A. Wilson, claiming a privilege on said boat for his services as mate.

Wherefore and by reason of the premises, petitioner prays to be allowed to intervene in said suit; that both Wm. T. McCormick and W. A. Wilson be served with a copy of this petition, and that after due proceedings had, there be judgment in his favor against said Wilson, for the sum of $260, with interest, costs, &c., with privilege on said steamer Rodolph, for general relief, &c.

(Signed) C. M. JONES,
For Petitioner.

Account.

Steamboat Rodolph, and owners,

To George A. Jouett, Dr.

For services as pilot from 23d Nov., 1840, inclusive, at $100 per month, ...	$300 00
Received at various times, ...	40 00
Balance due, . . .	$260 00

New Orleans, 23d Feb'y, 1841.

Services accepted.

(Signed) W. A. WILSON,
(Signed) W. T. McCORMICK.

Intervention of William Saunders, filed 8th March, 1841.

To the honorable, the judge of the Commercial Court of New Orleans:

The petition of William Saunders respectfully shows that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $41 60, for services as second steward on said boat for the 60 days previous to the 22d February, 1841, at the rate of $25 per month, for which he had a privilege on said boat. The account is annexed for reference.

Petitioner shows that said steamer Rodolph has been attached in this court, in the case of McCormick *v.* W. A. Wilson, claiming a privilege on said boat for his services as mate.

Wherefore and by reason of premises, petitioner prays to be allowed to intervene in said suit; that both parties be notified of this his petition of intervention, and that after due proceedings had, he have judgment against said Wilson for $41 60, interest and costs, with privilege on said boat, general relief, &c.

(Signed) C. M. JONES,
For Petitioner.

Account.

Steamer Rodolph, and owners,

To William Saunders, Dr.

1841.	
Feb'y 22. To services as second steward, at $25 per month, ...	$41 60

Services accepted.

(Signed) W. A. WILSON,
(Signed) W. T. McCORMICK.

Intervention of William Smith, filed March 8th, 1841.

The petition of William Smith respectfully shows that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in

the sum of $85, as wages for his services as engineer on board of said steamer, for the thirty days previous to the 22d February, 1841, at the rate of $100 per month, all which more fully appear by reference to his account and annexed, for the payment of which petitioner avers he has a privilege on said boat.

Petitioner shows that Wm. T. McCormick has attached said boat in this honorable court, in the suit of McCormick *v.* W. A. Wilson, claiming a privilege on said boat for his services as mate.

Wherefore and by reason of premises, petitioner prays to be allowed to intervene in said suit; that both McCormick and Wilson be served with a copy of this petition of intervention, and that after due proceedings had, he have judgment against said Wilson for $85, with interest and costs, with privilege on said steamer for general relief, &c.

(Signed) E. M. JONES,
For Petitioner.

Account.

Steamer Rodolph, and owners,

To William Smith, Dr.

1841.
Feb'y 22. To services as engineer, $100 per month, . $85 00

Service accepted.

(Signed) W. A. WILSON,
(Signed) W. T. McCORMICK.

Intervention of John Sherry & Co., filed 8th March, 1841.

To the honorable, the judge of the Commercial Court of New Orleans:

The petition of John Sherry & Co., respectfully shows that steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $50 59, for provisions furnished the said steamer, during the last sixty days, ending 22d February, 1841, for which they have a privilege on said boat. The account is annexed for reference.

Petitioners show that said boat has been attached in this court, in the suit of McCormick *v.* W. A. Wilson, claiming a privilege on said boat for services as mate.

Wherefore and by reason of premises, petitioners ask to be allowed to intervene in said suit; that both McCormick and Wilson be served with a copy of this his petition of intervention, and that after due proceedings had, we have a judgment against said Wilson for $50, with interest and costs, with privilege on said steamer for general relief, &c.

(Signed) B. M. JONES,
For Petitioners.

Account.

NEW ORLEANS, Feb'y 20, 1841.

Steamer Rodolph,

Bought Jno. Sherry & Co.

6 bbls. potatoes,	15⅛	$9 75
68 lbs. butter,	15	10 20
50 " lard,	5½	4 48
1 bbl. pork,	5	9 01
Drayage,	. . . . .	25
199 lbs. ham,	8½	16 90
		$50 59

Service accepted.

(Signed) W. A. WILSON,
W. T. McCORMICK.

Intervention of Wm. Fageus.

Filed, 8 March, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans :

The petition of Wm. Fageus respectfully shows that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $135, balance due for his wages as 2d engineer on board said steamer, for the last sixty days, ending on the 22d February, 1841, at the rate of $75 per month, for which he avers he has a privilege on said boat. The account is annexed for reference.

Petitioner shows said boat has been attached in this honorable court, in the case of McCormick *v.* W. A. Wilson, claiming privilege for his services as mate. Wherefore and by reason of premises, petitioner prays to be allowed to file this, his petition of intervention, in said suit, that both parties be notified thereof, and that after due proceedings had, we have judgment against said Wilson, with privilege on said boat, for the sum of $135, interest and costs, general relief.

(Signed) C. M. JONES.

Steamer Rodolph and owner,

To Wm. Fageus, Dr.

For services, as above stated, ... $135 00

Service accepted.

(Signed) W. A. WILSON,
W. T. McCORMICK.

Intervention of Charles Heffeman.

Filed 8 March, 1841.

To the Honorable the Judge of the Commercial Court of New Orleans:

The petition of Charles Heffeman respectfully shows, that the steamer Rodolph, and W. A. Wilson, owner, are justly indebted to him in the sum of $62, for butcher meat, furnished said boat during the last 30 days, ending the 22d February, 1841, for which he has a privilege on said boat. The account is annexed for reference. Petitioner shows said steamer has been attached in this honorable court, in the suit of McCormick *v.* W. A. Wilson, claiming a privilege on said boat for wages as mate. Wherefore and by reason of premises, petitioner prays to be allowed to intervene in said suit, that both parties be notified of this, his petition of intervention, and that after due proceedings had, he have judgment for said sum of $62, with interest, costs, &c., with privilege on said boat, for general relief, &c.

(Signed) C. M. JONES,
For Petitioner.

Service accepted.

(Signed) W. A. WILSON,
W. T. McCORMICK.

Third Opposition of Municipality No. 2.

Filed 24 March, 1841.

McCORMICK
v.
WILSON and STEAMER RODOLPH.

Municipality No. 2, a corporation in New Orleans, respectfully shows, that the owners of the steamer Rodolph are indebted to them in the sum of $20, for wharfage of said steamer Rodolph, due February 24, 1841, price of which said steamer has not made a voyage.

Petitioners pray that plaintiff, defendant, and sheriff, be cited to answer.

Petitioners pray for judgment for said sum of $20, and that they may be paid by preference, over all other creditors, out of the proceeds of said boat.

(Signed) E. RAWLE,
For M. No. 2.

2d Municipality.

Account.

No.

Received $20, the amount of wharfage due to 2d Municipality, from the steamboat Rodolph.

NEW ORLEANS, Feb'y 20th, 1841.

(Signed) A. PINTE,
Deputy Collector.
J. CALHOUN,
Collector of levee dues.

Services waived.

(Signed) C. M. JONES.
MURPHY,
Deputy Sheriff.

Default.

May 12th 1841.

On motion of C. M. Jones, of counsel for plaintiff, and on showing to the court that defendant has failed to answer, though duly cited, ordered that judgment by default be herein rendered against said defendant.

Default against Defendant on Intervention.

May 12th, 1841.

On motion of C. M. Jones, of counsel for Geo. M. Jerrett, Hill & Relf, A. Sylvia, Chas. Heffeman, T. B. Winston, W. Fageus, Sherry & Co., W. Smith, Wm. Saunders, intervenors in this case, and on showing to the court that defendant, W. A. Wilson, had failed to answer the petition of intervention of each of the above-named intervenors, though cited, ordered that judgment by default be herein rendered on said intervention against said defendant.

Judgment.

June 19th, 1841.

On motion of C. M. Jones, of counsel for plaintiff and intervenors in this case, and on producing to the court due proof of the demand of said plaintiff and said intervenors,

It is considered that the judgment by default herein rendered, on the 12th May, 1841, be confirmed, and that said plaintiff, W. T. McCormick, and the said intervenors hereinafter named, recover from the defendant, W. A. Wilson, owner of the steamer Rodolph, with privilege on said steamer, as follows, viz.:

That the plaintiff, W. T. McCormick, recover from said defendant the sum of $855 94. That Wm. Saunders recover the sum of $41 60; Wm. Smith recover the sum of $85; Sherry & Co., $50 59; A. Sylvia, $40; Wm. Fageus, $135; Hill & Relf, $297 40; T. B. Winston, $300 41; G. A. Jouett, $200; C. Heffeman, $62. And it is further considered that defendant pay costs of suit.

Rendered June 19th, 1841.

Signed June 24th, 1841.

(Signed) C. WATTS,
Judge.

Certificate of Judgment.

The State of Louisiana, Commercial Court of New Orleans.

I hereby certify, that on the 19th day of June, 1841, judgment was entered in this court in the suit of Wm. T. McCormick *v.* W. A. Wilson, owner of steamer Rodolph (see judgment copied above), judgment recorded in judgment docket, p. 296, which costs amount to the sum of exclusive of the sheriff's fees.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on the 24th June, A. D. 1841, and in the 65th year of the independence of the United States.

[SEAL.]

PE. DEVERGES,
Deputy Clerk.

Sheriff's Return.

Received 24th June, 1841. The defendant could not be found, after diligent search. Returned August 16, 1841.

(Signed) MURPHY,
D. S.

Fi. Fa.

Louisiana, Commercial Court of New Orleans.

The State of Louisiana, to the Sheriff of the Commercial Court of New Orleans, greeting:

We command you, in the name of Louisiana, and of the Commercial Court of New Orleans, that you demand from W. H. Wilson the sum of $855 94, recovered by W. T. McCormick, plaintiff; the sum of $4160, recovered by William Saunders, intervenor; the sum of $85, recovered by Wm. Smith, intervenor; the sum of $50 59, recovered by Sherry & Co., intervenors; the sum of $135, recovered by Wm. Fageus, intervenor; the sum of $300 41, recovered by T. B. Winston, intervenor; the sum of $40, recovered by A. Sylvia, intervenor; the sum of $62, recovered by C. Heffeman, intervenor; the sum of $297 40, recovered by Hill & Relf, intervenors; the sum

of $200, recovered by G. A. Jouett, intervenor; and also the sum of $30 37 costs, which they lately recovered by judgment of the Commercial Court of New Orleans; and if shall not pay the same after legal demand, that then you cause to be made out of the personal estate of the said W. A. Wilson, except slaves, in your district, if sufficient personal estate, exclusive of slaves, cannot be found in your district, whereof he was owner on the 24th day of June, 1841, in whose hands soever the same may have come, and that you have the moneys before our said court, to render the said W. T. McCormick and others aforesaid, for the judgment aforesaid, on the Monday of February next, together with this writ.

Witness the Honorable Charles Watts, Judge of the said [SEAL.] court, the 18th day of December, A.D. 1841, and in the 66 year of the independence of the United States.

Signed, R. GADERE,
Deputy Clerk.

Sheriff's Return.

Received December 18th, 1841, and seized 3 notes drawn by G. W. Russell to the order of the indorser by S. G. Ogden for $1033 33 each, and dated 12th April, 1841, payable 3, 6, and 9 months after date, protested for non-payment, said notes being in my hands, as the proceeds of the sale of the steamboat Rodolph, and executed this writ in all things as the law directs. No other property found.

Returned 1st Monday of February, 1842.

Signed, MURPHY,
Deputy Sheriff.

State of Louisiana, 4th District Court of New Orleans.

I, Wm. C. Auld, clerk of the 4th District Court of New Orleans, do hereby certify that the foregoing 25 pages and a portion of a page, contain a full and complete transcript of the record of the case, wherein W. T. McCormick is plaintiff and W. A. Wilson is defendant, instituted in the late Commercial Court of New Orleans under the No. 3635; and I do further certify, that pursuant to an act of the Legislature of this State, approved the 30th April, 1846, the records of the said late Commercial Court have been transferred to this court, and are now in my custody and possession as clerk aforesaid.

In testimony whereof, I have hereunto set my hand, and [SEAL.] affixed the seal of said court, at the city of New Orleans, on this 18th day of May, A.D. 1857, and in the 81st year of the independence of the United States.

WM. C. AULD,
Clerk.

The judge's certificates to the foregoing is in due form, dated 18th May, 1857.

Signed, JOHN W. PRICE,
Judge 4th District Court of New Orleans.

On the 23d May, 1857, the following notice and deposition were received by mail, under seal commonwealth Kentucky, Jefferson Circuit Court.

Notice.

JOHN W. RUSSELL
v.
RICHARD CHRISTMAS and others.

The defendants will take notice that on the 16th day of May, 1857, at the office of John Price, Esq., New Orleans, Louisiana, city of State of the plaintiff will proceed to take the deposition of sundry witnesses, to be read as evidence in the above suit, the taking of the same will be continued from day to day (Sundays excepted) until finished.

BARRETT & WOOD,
Attorneys.

May 6th, 1857.

Indorsed: As attorney, for defendant, Richard Christmas, we acknowledge service of this notice.

BODLEY & PINDELL.

May 6th, 1857.

The Deposition of L. Madison Day, Esq.,

Taken 16th May, A.D. 1857, at the office of John W. Price, Esq., attorney at law, in the city of New Orleans, &c., sworn, says:

I am an attorney at law in the city of New Orleans, Louisiana, and have been for many years. The settled and established law of this State in regard to lien and privileges on steamboats, is and was, in the year 1836, and has been since, that all persons who furnish supplies to steamboats, and all persons who perform labor on steamboats, have a lien for all supplies furnished and all labor performed on steamboats, within 60 days from the date of furnishing such supplies, or rendering services thereto and thereon. The law upon the subject in Louisiana is proved in the case of Lee *v.* His Creditors, 2d Louisiana Annual Reports, pages 599 to 604, which is made part of this deposition. I further understand the law in this State of be, that those liens or privileges adhere to the boat or vessel, or attach thereto, and that no steamboats, upon which any such lien or privilege exists, can be sold to defeat and divest such lien or privileges,

and that such lien or privilege may be enforced against any bona fide purchaser of any boat.

L. MADISON DAY.

Also the Deposition of Bentuck Eagan, Esq.

I am an attorney at law, practising in the city of New Orleans. The settled rule of law in this State with regard to persons who furnish previous supplies, or performing work or labor on steamboats, or other vessels, have a privilege or lien on such vessels or steamboats, from the date they furnish such supplies, or perform such labor, or services, of 60 days over all others.

BENTUCK EAGAN.

The Deposition of John S. Relf, Esq.,

Taken at the same time and place, sworn, says: I reside in the city, and was a member of the late firm of doing business in the city, under the name and style of Hill and Relf, hardware merchants. The said firm furnished the steamboat Randolph in the year 1841, certain supplies, and the bill for same amounting to between 2 and $300 was, to the best of my recollection, and judging from my recollection of the circumstances, paid by Captain Russell, who was then captain of the boat, or interested therein at the time.

J. SIDNEY RELF.

Examinations and certificates to the foregoing depositions is in due form, dated 16th May, 1857.

Signed, WALTER H. PETERS,
Commissioner for Kentucky.

On the 12th November, 1857, came the defendant's attorney, and filed grounds for a new trial, viz.:

Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

1. The verdict is against law and evidence.
2. The defendant was surprised by the evidence of Mrs. Wales. (See affidavit of Bodley filed.)
3. The verdict was for an excessive sum, and because there is error in the assessment of the amount of recovery.

W. S. BODLEY,
Plaintiff's Attorney.

On the 24th February, 1858, the following affidavits were filed.

Affidavit of Thomas Christmas.

I knew defendant Richard Christmas in the year 1839 and 1840, and ever since affiant knows; defendant was in Madison county, Mississippi, during the month of January, 1840, and up to the 11th February, same year. Affiant is able to fix the time from the following circumstances: defendant was, from the above stated time, say from 1st January, 1840, to 11th February, same year, engaged in a trade with affiant and Henry Christmas for land and negroes, situated in Madison county, Mississippi, where affiant and Henry Christmas lived in January, 1840, which trade defendant did make with affiant and Henry Christmas, on 11th February, 1840; affiant recollects that defendant had much trouble and delay in making the arrangement for said trade agreeable; the terms which were that defendant was to pay certain debts due by affiant and Henry Christmas; among the most important was a debt due to John Simmons, by affiant and Henry Christmas, of some 18 or $19,000, which defendant did pay to said Simmons, between the 1st and middle of January, 1840; affiant recollects that defendant and family was staying at the house of Alexander Allen, in said Madison county, Mississippi, during the above negotiations in January, 1840, some 2 miles from affiant's house in said city of Madison; and Mrs. Christmas, wife of defendant, was taken violently ill about the middle of the month of January, 1840, and her life almost despaired of for some 8 or 10 days after, during which time defendant and affiant was in attendance daily. Affiant recollects to have given defendant a receipt on the 23d of January, 1840, at Livingston, Mississippi, which receipt affiant attaches to this affidavit, and is marked "K." This receipt I signed at Livingston, Mississippi, and handed to defendant on 23d January, 1840, for the purpose therein specified; from the above circumstances affiant is certain that defendant was in Madison county during the month of January, 1840, and up to 11th February, 1840, and could not have been absent from the State of Mississippi during the above time without the knowledge of affiant; and affiant is certain defendant was not so absent, as affiant was in almost daily intercourse with defendant during the month of January, 1840, and part of defendant's time was spent at affiant's house, in said Madison county, Mississippi, but the greater portion at the house of Alexander Allens, in same city of Madison, Mississippi.

THOMAS H. CHRISTMAS.

Mississippi, Warren County, *ss.*

Personally appeared me, Laurence S. Houghton, a justice of the peace of the county of Warren, Thos. H. Christmas; being duly

sworn, deposeth that the matters and things set forth in the foregoing affidavit are as therein stated.

L. S. HOUGHTON,
J. P.

Receipt.

LIVINGSTON, Miss., Jany. 23d, 1840.

Received of R. Christmas $600, in full payment for a negro boy called "Harry" (a runaway), sold to H. G. Runnells as my property, and on my account, which sale I hereby ratify and confirm, and will hold you harmless on account of said sale.

T. CHRISTMAS.

Affidavit of J. S. Brian.

NASHVILLE, Dec. 23d, 1857.

On the 11th day of February, 1840, while in Madison county, Miss., I wrote, at the instance of Richard Christmas, deeds, the copies of which are now before me, which I believe to be copies of the original written by me, and upon which copies I have here written my name. Rd. Christmas was present at the time the deeds were written. I see the deeds are dated 11th Feby. 1840. I therefore conclude that this was the day the writing was done, for several days before the writing was done by him. I was in consultation with Christmas, as to the propriety and legality of the sales and transfers mentioned in the deeds. We were Canton, Miss. Our first interview was several days before the deeds were drawn, but how many, I cannot at this distance of time remember; but my best impression is, that it must have been a week or more, and for this reason, that I was not satisfied that the thing could be done, and so mentioned to Christmas, and took some time to consider of it. I finally decided it could be done. I therefore fixed upon a future day, when I would accompany him to his brother's, about 10 miles distant from Canton, and drew the deeds. I did not go out with him at the time designated, and wrote the papers. I did not know Christmas was out of Madison county from our first interview, till after the writing was done. I think I saw him every day during that time. These are my best impressions of what took place there, and I believe them correct, yet I may possibly be mistaken, as the transaction has been so long ago.

JOHN S. BRIEN.

State of Tennessee, Davidson County.

I, Josiah Ferris, notary public, within and for said city and State, duly commissioned and sworn, do hereby certify, John S. Brien, within whom I am personally acquainted, this day came before me, and made oath that the foregoing statements are true.

[SEAL.] Given under my hand and notarial seal, at office in city of Nashville, Tenn., on the 23d day of Dec., 1857.

JOSIAH FERRIS.

The foregoing are the copies of deeds referred to in the foregoing. Received for record 27th, and recorded 29th February, 1840.

Deeds.

This indenture, made and entered into this 11th day of February, A.D. 1840, between Richard Christmas and Mary E., his wife, of the county of Warren and State of Mississippi, and Wm. B. Norflett, of the county of Madison and State aforesaid, of the one part, and Henry Christmas and Thomas H. Christmas, of the said county of Madison and State aforesaid, of the other part, witnesseth, that whereas the said Richard Christmas and Wm. B. Norflett are justly indebted to the said Henry and Thomas Christmas in the sum of $60,392 60cts., for which they have executed and delivered their several promissory notes, bearing even date with these presents, as follows, to wit: two for the sum of $6500 each, payable to the said H. & T. H. Christmas, or order, on or before the 1st day of March, 1841, negotiable and payable at the Coml. Bank at New Orleans. Two for the sum of $6500, payable in like manner as the last, on or before the 1st day of March, 1842. One other for the sum of $1300, negotiable and payable as aforesaid, on or before the 1st day of March, 1843. One other sum of $13,000, negotiable and payable as aforesaid, on or before the 1st day of March, 1844. And one other for the sum of $8392 60cts., negotiable and payable as aforesaid, on or before the 1st day of March, 1845; all of which notes are written on the face thereof, secured by mortgage on real estate and slaves, and the said Richard Christmas and Wm. B. Norflett, are anxious and desirous to secure the punctual payment of the said several promissory notes, as they respectively fall and become due.

Now, therefore, this indenture witnesseth, that the said Richard Christmas and wife, and Wm. B. Norflett, for and in consideration of the premises, and for the further consideration of $10, to them in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained and sold, and by these presents do give, grant, bargain and sell unto the said Henry Christmas and Thos. H. Christmas, and to their heirs and assigns forever, a certain tract or parcel of land, situate, lying, and being in the city of Madison aforesaid, being the same land which is embraced in the following subdivisions, to wit: The south half of section 35, in township 9, range 1 east, section 2; the W. ½ of the N. W. ¼ of section 1; the W. ½ of the S. W. ¼ of sect. 1; the E. ½ of sect. 2, and 95 acres in sect. 4, in township 8, range 1 east; bounded on the S. side by the Sn. boundary of said

sect. 4, and extending N. in said section, containing in all 1535 acres, be the same more or less, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and all the estate, right, and title of them the said Rd. Christmas and wife, and Wm. B. Norflett, have granted, bargained, and sold, and by these presents do bargain and sell unto the said H. C. Christmas and Thos. H. Christmas, the following negroes, slaves for life, and their increase, to wit:

Adam, 25 years of age; Anderson, 25 years of age; Cudgeon, 25 years of age; Jim, 35 years of age; Henry, 30 years of age; Davy, 25 years of age; Reuben, years of age; Albert, 22 years of age; Mark, 45 years of age; John, 20 years of age; Aaron, 25 years of age; *Aaron*, 20 years of age; Pomp, 22 years of age; Levoy, 30 years of age; Billy C., 30 years of age; Henry, 22 years of age; Mingo, 25 years of age; Cato, 18 years of age; Robt., 25 years of age; Noah, 30 years of age; Jesse, 35 years of age; Ned, 35 years of age; More, 25 years of age; Paul, 35 years of age; Edmund, 45 years of age; Danl., 16 years of age; Isaac, 12 years of age; Shade, 12 years of age; Chas., 15 years of age; Granowith, 14 years of age; Dick, 15 years of age; John, 22 years of age; Ben, 13 years of age; Tom, 22 years of age; Peter, 16 years of age; Ned, 18 years of age; Stump, 25 years of age; Billy, 25 years of age; Roes, 30 years of age; Will, 30 years of age; Spencer, 30 years of age; Sarah, 18 years of age; Mariah, 28 years of age; Mary, 20 years of age; Mahala, 20 years of age; Cloe, 20 years of age; Ann, 25 years of age; Lydia, 18 years of age; Mary, 16 years of age; Abby 20 years of age; Mariah, 27 years of age; Hannah, 20 years of age; Ann, 20 years of age, and her child; Viney, 35 years of age; Milly, 20 years of age; Harriett, 25 years of age; Celia, 14 years of age; Peggy, 18 years of age; Caroline, 24 years of age; Eliza, 16 years of age; Dolly, 18 years of age; Mary, 18 years of age; Eady, 14 years of age; Emily, 14 years of age; Caroline, 16 years of age; Jane, 25 years of age; Betsey, 16 years of age; Daca, 20 years of age; Emily, 10 years of age; Frazier, 8 years of age; Julia, 20 years of age, and her child; Aggy, 45 years of age; Susan, 16 years of age; Julia Ann, 10 years of age; Blount, 4 years of age; Esther, 6 years of age; Jackson, 9 years of age; Mingo, 12 years of age; Hagon, 6 years of age; and Washington, 5 years of age; also, 30 head of mules, and horses, and the stock of cattle and hogs, farming utensils, wagons, and carts, and blacksmiths' tools, on or connected with the plantation, on the land and premises hereby sold and conveyed, the land hereby conveyed being the same land and negroes, and a portion of the other property, which by a deed of bargain and sale, bearing even date with these presents, was conveyed by the said Henry Christmas and wife, and Thomas H. Christmas, to said Richard Christmas and Wm. B. Norflett, and the object of this conveyance is to secure to the said Henry and Thomas H. Christmas,

and their heirs and assigns, the payment of the debt aforesaid, and said Richard Christmas and Wm. B. Norfleet now agree to appropriate the said profits to the said object, to have and to hold the land and premises hereby bargained and sold, with the hereditaments and appurtenances thereto belonging, or in anywise appertaining, with the rents and profits thereof, and the negroes and other property aforesaid, with the increase of the females of said negroes, and all the profits, production, and products of the labor of the said negroes, unto them the said Henry Christmas and Thomas H. Christmas, their heirs and assigns, to them and their only proper use and behoof forever. Provided, however, and the conveyance is made on condition, that should the said Richard Christmas and Wm. B. Norfleet well and truly pay the sum of money aforesaid, and each and every part thereof, when and as each of the promissory notes aforesaid fall and become due, and all costs, interests, and charges which may accrue thereon, then and in that event the conveyance shall be void, and the estate thereby conveyed shall cease and be determined; otherwise to be and remain in full force and effect.

In testimony whereof, the said Richard Christmas, Mary E., his wife, and William B. Norfleet, have hereunto set their hands and seals the day and year first before written.

R. CHRISTMAS. [SEAL.]
WM. B. NORFLEET. [SEAL.]
MARY E. CHRISTMAS. [SEAL.]

Signed, sealed, and delivered, in presence of

State of Mississippi, Madison County.

Personally appeared before me, a justice of the peace, the within named Wm. B. Norfleet, who acknowledged that he signed, sealed, and delivered the within deed of mortgage and conveyance to the said Henry and Thomas H. Christmas, on the day and year therein specified, for the purposes therein mentioned, as his act and deed.

Given under my hand and seal this 25th day of February, 1840.

WILL. DE HART. [SEAL.]

State of Mississippi, Warren County.

Personally appeared Richard Christmas before me, Edward R. Warren, an acting justice of the peace and ex-officio notary public for said county, and acknowledged that he signed, sealed, and delivered the within deed of mortgage and conveyance, on the day and year therein named, and for the purposes therein specified, as his act and deed; also personally appeared, Mary E. Christmas, wife of the said Richard Christmas, before Edward R. Warren, an acting justice of the peace and ex-officio notary public as aforesaid, and being by me privately examined, separate and apart from her said husband,

acknowledged that she signed, sealed, and delivered the within deed of mortgage and conveyance, as her voluntary act and deed, without any fear, threats, or compulsion of her said husband, on the day and year therein mentioned, and for the purposes therein specified.

Given under my hand and seal this the 22d day of February, A.D. 1840.

EDWARD R. WARREN,
Justice of the Peace and ex-officio Notary Public.

The State of Mississippi, Madeira County, *sct.*

I, John T. Cammel, clerk of the Probate Court of said county, hereby certify the foregoing deed to be a transcript from the records of my office book of deeds G., pages 431, 432, 433, 434.

Given under my hand and seal of office, at Canton, this 5th day of December, A.D. 1857.

[SEAL.]

JOHN T. CAMMAL,
Clerk.

State of Mississippi, Madison County.

I, Josiah Simmons, sole judge of probate in and for said county and State, do hereby certify, that John T. Cammel, whose genuine signature appears to the foregoing certificate, is and was, at the time of signing the same, clerk of said court, duly elected, commissioned, and qualified, according to law; that his said certificate is in due form of law, and by the proper officer; that the seal thereto affixed is the seal of said court, and that all of his official acts are entitled to full faith and credit.

Given under my hand and seal this 8th day of December, 1857.

J. M. SIMMONS, [SEAL.]
Judge of Probate.

Christmas and Christmas deed Christmas and Norfleet.

Received for Record 15th. Recorded 29th, 1840.

This indenture, made and entered into this 11th day of February, A.D. 1840, between Henry Christmas and Ann D. Christmas, his wife, of the county of Madison and State of Mississippi, and Thomas H. Christmas, of the same county and State, of the one part, and Richard Christmas, of Warren county, and Wm B. Norfleet, of the same county and State aforesaid, of the other part, witnesseth, that the said Henry Christmas and wife, and Thomas H. Christmas, for and in consideration of the sum of $80,000, to them in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have given, granted, bargained, and sold, and by these presents do give, grant, bargain, and sell unto the

said Richard Christmas and Wm. B. Norfleet, and to their heirs and assigns, forever, a certain tract or parcel of land, situate, lying, and being in the county of Madison aforesaid, being the same land which is embraced in the following subdivisions, to wit: The south half of section 35, in township 9, range 1 east, section 2; the west half of the N. W. quarter of section 1; the west half of the southwest quarter of section one; the east of section 2, and 95 acres in section 4, in township 8, range 1, east; bounded on the south side by the southern boundary of said section 4, and extending south in said section; containing in all 1535 acres, be the same more or less, with the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and all the estate, right, and title of them, the said Henry Christmas and wife, and Thomas H. Christmas, of, in, and to the same, and every part and parcel thereof, and for the same consideration the said Henry Christmas, and Thomas H. Christmas, have bargained, and sold, and delivered, and by these presents do bargain, sell, and deliver, unto the said Richard Christmas and Wm. B. Norfleet, and to their heirs and assigns, forever, the following negroes, with the increase of the females, to wit:

Adam,	about 25	years of age.		Anderson,	about 25	years of age.	
Cudgo,	" 25	"	"	Jim,	" 30	"	"
Henry,	" 30	"	"	Davy,	" 35	"	"
Reuben,	" 30	"	"	Albert,	" 22	"	"
Mark,	" 45	"	"	John,	" 20	"	"
Aaron,	" 25	"	"	Aaron,	" 20	"	"
Pomp,	" 22	"	"	Leroy,	" 30	"	"
Billy C.,	" 30	"	"	Henry,	" 22	"	"
Mingo,	" 25	"	"	Cato,	" 18	"	"
Robert,	" 25	"	"	Noah,	" 30	"	"
Jesse,	" 35	"	"	Ned,	" 35	"	"
Moses,	" 25	"	"	Paul,	" 35	"	"
Edmund,	" 45	"	"	Daniel,	" 16	"	"
Charles,	" 15	"	"	Isaac,	" 12	"	"
Shad,	" 12	"	"	Granott,	" 14	"	"
Deck,	" 15	"	"	John,	" 20	"	"
Ben,	" 13	"	"	Tom,	" 20	"	"
Pete,	" 16	"	"	Ned,	" 18	"	"
Stump,	" 25	"	"	Billy,	" 25	"	"
Rives,	" 30	"	"	Will,	" 30	"	"
Spencer,	" 30	"	"	Sarah,	" 18	"	"
Maria,	" 28	"	"	Mary,	" 20	"	"
Mahala,	" 20	"	"	Chloe,	" 20	"	"
Ann,	" 5	"	"	Lydia,	" 18	"	"
Mary,	" 16	"	"	Abby,	" 20	"	"
Maria,	" 27	"	"	Hannah,	" 20	"	"
Ann,	" 20	"	" and her child.				

Viney,	about	35	years	of age.	Celia,	about	15	years	of age.
Peggy,	"	18	"	"	Caroline,	"	25	"	"
Eliza,	"	16	"	"	Dolly,	"	18	"	"
Mary,	"	18	"	"	Eady,	"	14	"	"
Emily,	"	14	"	"	Caroline,	"	16	"	"
Jane,	"	25	"	"	Betsey,	"	16	"	"
Dorcas,	"	20	"	"	Emily,	"	10	"	"
Frazier,	"	8	"	"	Julia,	"	20	"	"
Aggy,	"	45	"	"	and her child.				
Julia,	"	10	"	"	Susan,	"	16	"	"
Esther,	"	6	"	"	Blount,	"	4	"	"
Jackson,	"	9	"	"	Mingo,	"	12	"	"
Hagar,	"	6	"	"	Washington,	"	5	"	"

Also 32 head of mules and 6 horses, and the stock of cattle and hogs, farming utensils, wagons and carts, the corn and fodder, oats and bacon, and blacksmith tools in or connected with the plantation, on the land and premises hereby sold and conveyed, and the household and kitchen furniture now in the dwelling-house on the premises, and one pleasure carriage, to have and to hold the land and premises hereby conveyed, with the hereditaments and appurtenances thereunto belonging, or in any wise appertaining; and the negroes and other property before mentioned, with the increase of the females of the negroes aforesaid, unto them, the said Richard Christmas and Wm. B. Norflett, their heirs and assigns, to his and their only proper use, benefit, and behoof, forever; and the said Henry Christmas and wife, and Thos. H. Christmas, for themselves, their heirs, executors, administrators, hereby covenant and agree, to and with the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, that the before-described land and bargained premises, against the claim or claims of all and every person or persons whatsoever unto the said Richard Christmas and Wm. B. Norflett, their heirs and assigns, they do and will warrant and forever defend by these presents, and the said Henry Christmas and Thomas H. Chrismas hereby covenant and agree, to and with the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, that the negroes aforesaid are sound, sensible, and healthy, and slaves for life.

In testimony whereof the said Henry Christmas, his wife, and Thomas H. Christmas, have hereunto set their hands and seals the day and year first above written.

H. CHRISTMAS. [SEAL.]
THOS. H. CHRISTMAS. [SEAL.]
ANN D. CHRISTMAS. [SEAL.]

Signed, sealed, and delivered
in presence of
CHS. W. ALLEN,
A. G. BENNETT.

State of Mississippi, Madison County.

Personally appeared before me, a J. P. of said county, the within-named Henry Christmas and Thomas H. Christmas, who acknowledged that they signed, sealed and delivered the foregoing deed of conveyance to the said Richard Christmas and W. B. Norfleet, on the day and year therein mentioned, as their act and deed; and at the same time and place personally appeared before me also Ann D. Christmas, wife of the said Henry Christmas, and being by me examined, privately and apart from her said husband, she acknowledged that she had signed, sealed, and delivered the foregoing deed of conveyance to the said Richard Christmas and W. B. Norfleet, freely and voluntarily, without any fear, threat, or compulsion from her said husband, on the day and year therein named, as her voluntarily act and deed.

Given under my hand and seal this 13th day of February, 1840.

WILL. D. HART, [SEAL.]
J. P.

State of Mississippi, Madison County, *set.*

I, John J. Camenel, Clerk of the Probate Court, in and for the county and State aforesaid, hereby certify the foregoing deed to be a true transcript from the records of my office, Book of Deeds "G." pages 429, 430, and 431.

[SEAL.] Given under my hand and seal of office at Canton, this 5th day of December, A.D. 1857.

JOHN T. CAMENEL,
Clerk.

State of Mississippi, Madison County.

I, Isaiah M. Simmons, sole Judge of Probate in and for said county and State, do hereby certify that John Camenal, whose genuine signature appears to the foregoing certificate, is and was at the time of signing the same, clerk of said court, duly elected, commissioned, and qualified according to law, that this said certificate is in due form of law, and by the proper officer, that the seal thereto affixed is the seal of said court, and that all of his official acts are entitled to full faith and credit.

Given under my hand and seal this 8th day of December, A.D. 1857.

I. M. SIMMONS, [SEAL.]
Judge of Probate.

Affidavit of F. Carter.

The following is the affidavit of Frank Carter, filed in the following case:

RUSSELL
v.
CHRISTMAS. } Jefferson County Court.

Frank Carter says he was well acquainted with Capt. Wm. A. Wilson, who formerly commanded the steamer Rodolph, and who married Miss Shane, and has seen him write. He has examined the letter hereto attached, dated Vicksburg, Sept. 7th, 1840, and purporting to be from said Wilson to Richard Christmas, at Mississippi Springs, near Clinton, Mississippi, and recognizes it as the handwriting of said Wilson, and believes it to be such.

FRANK CARTER.

Sworn to before me by Frank Carter, this 25th of February, 1858.

H. C. PURDELL,
H. P. J. C.

Letter referred to above.

VICKSBURG, September 7th, 1840.

Mr. R. C. CHRISTMAS.

Dear Sir: I arrived here this morning on the steamer Wilmington, and shall leave in the morning for Yazoo. Mr. Begley this evening showed me your letter to him, saying you had received my letters. From my not receiving an answer, I concluded the letter to you had miscarried. On my last trip to New Orleans, the inspectors came aboard and informed me the boat could not be insured, or her cargo, until she was repaired; consequently, I had to take her over the river to the ship-yard, as by her not being insured, Mr. Samuels would be at any time liable to close his mortgage on her. I have made a contract with the carpenter to get one-third of her repairs done on a credit of 90 days; her repairs will probably cost $2000. As I stated to you in my previous letter, I have not money to repair her, or to commence, altho having made and signed an agreement to have her done in three weeks from that time. I am sorry to be under the necessity of again calling on you; have advanced money for her to some amount, but I will make one proposition to you, which I think will be satisfactory. The boat, in her present state, would not sell for a sufficient to pay Samuels, and what she owe you; if you cannot possibly furnish the money to repair her until spring, and pay Samuels, if possible, that shall, at your request be sold, and, after paying her debts, the balance shall be given to you, or a sufficient, to pay you all that you have advanced for the boat. In this I

think you would be safe, and this I will freely give my consent to, for I assure you, Mr. Christmas, I wish you not to loose one dollar by the boat, if I can avoid it, and what I have in the boat, altho it is my all, yet I will loose it, and commence the world again. I have been unfortunate in not making money with the boat this season, yet I cannot blame myself with any neglect or mismanagement of the boat, as my time and attention has been entirely devoted to her, and her books at any time open to the inspection, for I have also kept an eye to that part of the business. I am well aware of the times, and could I have resorted to any means, I would not have called on you, but it is impossible for me to raise the money. If you can arrange the matter, the boat, as I before stated, should be sold at your request, in the spring, for your benefit, to reinstate you in the amount you have and may advance for her. You can at any time draw on the boat for what sums there may be on hand. The boat would not, probably, at this time, sell for enough to pay Samuels, and the money you have advanced, nor could she be sold to an advantage with the mortgage on her. If you think of any arrangement to suit you better, I am willing, and will consent to it. Since writing to you, I have found Mr. Green, that I mentioned in my letter, was not the man he was represented to have been, and have dropped him on the contract for the agency at Port H—— also. I shall return here the last of the week from Ya——s. I am going up to secure some business of the planters for the boat, and would be glad to see you here, as it is impossible for me to return — N. Orl. until I make some arrangements to raise the money to pay for the repairs of the boat, as I would lay myself liable to prosecution on the contract. The drafts you gave me on Mr. Hill, last winter, I never used, having been able to get along without it. Let me hear from you as soon as possible, as my attention is wanting in New Orleans as soon as I can arrange this matter. I shall be at Satarta, and the neighborhood, for several days. My wife is still in Louisville, and in bad health.

Write me as soon as possible.

Your ob't servant,

W. A. WILSON.

Affidavit of Jas. Kelly.

The following is the affidavit of James Kelly:

State of Mississippi, City of Vicksburg, *ss.*

Be it known that on this 14th day of December, 1857, before me, Lazarus Lindsay, a commissioner for the State of Kentucky, in said State of Mississippi, duly commissioned and sworn, and residing in said city, personally came and appeared James Kelly, who being by me first duly sworn, states that, in December, 1839, and January, 1840, he, affiant, was in New Orleans, La.; that he was the carpenter

on the steamer Rodolph, the same steamboat purchased by Richard Christmas and others from John W. Russell and others; that his recollection is, that said Richard Christmas was also in New Orleans, in one or both of these months; and that said Richard Christmas, before and after January, 1840, was often on the steamboat Rodolph, acting as an owner, and that he was back and forth to New Orleans frequently. Affiant was an officer on said steamer nearly all the time she was owned by said Richard Christmas, Wilson, &c., and always understood that said Richard Christmas was an owner; he so acted and directed about said boat's affairs, and was so recognized and regarded by her officers and agents. Affiant never heard anything to the contrary until after the attachment was executed on said boat, at the suit of Russell, &c. Affiant was intimate with some of the owners, and in common conversation about the management and ownership of said boat, which Christmas was spoken of and considered as one of the owners.

Affiant does not think that Wilson and H. and T. H. Christmas were able to purchase a steamboat without assistance. In the absence of Richard Christmas, one of his brothers acted and managed for him.

JAMES KELLY.

Sworn to and subscribed before me, this 14th day of December, 1857. Witness my hand and official seal.

LAZ. LINDSAY. [SEAL.]

Affidavit of McCormick.

County of Hamilton, City of Cincinnati, *set.*

Before me, A. H. McGuffey, commissioner in Ohio, of and for the State of Kentucky, personally appeared Wm. T. McCormick, of lawful age, who being by me duly sworn, did depose and say, that he was mate of the steamer Rodolph, from December, 1838, until April, 1841. During all the time it was understood by me and by all the officers that Richard Christmas was the owner of the boat. He directed everything, controlled everything, and received all the money earned by the boat, and ordered and paid for all repairs. I had the Rodolph once during this time, and Richard Christmas paid the bills. I had her repaired twice, once here in Cincinnati; in the summer, 1839, I had a big repair made on the Rodolph; and in August, 1840, the Rodolph was put in the dry dock in New Orleans and repaired, and came out in the latter part of September, 1840. Christmas was to furnish the money for both these repairs. I paid the dock fee in New Orleans myself, and looked to Christmas for my money. He promised he would pay me. In the winter of 1839 and 1840, Mrs. Wilson came on board the Rodolph at the mouth of Red river; she came from the steamboat Nautilus. I believe she was

carried on board the Rodolph by her husband. I remember distinctly that it was just after dark in the evening, but I cannot fix the day of the month. I remember she fainted on the Nautilus just before she came on board. Richard Christmas was on board the Rodolph during this trip to the best of my recollection. I have no doubt of his being on board that trip. He went down several times that winter, and I am satisfied he was on board that trip. I recollect distinctly another fact; it is this, that, during the trip just before Capt. Russell attached the Rodolph, Christmas wanted to have the Rodolph given up to his creditors to pay his debts. He wanted to have this done at Vicksburg, and it was all arranged that this should be done the next trip. If Capt. Russell had not attached the Rodolph when he did, they had it all arranged that the Rodolph should be given up the next trip for Christmas's debts.

WM. T. McCORMICK.

In testimony whereof I have caused said affiant hereto to subscribe his name, and now affix my signature and official seal at [SEAL.] Cincinnati, Ohio, on this the 12th day of February, A.D. 1858.

A. H. McGUFFEY,
Com'r in Ohio for Kentucky.

A. Allen's Affidavit.

Kentucky, Jefferson County Court.

RUSSELL
v.
CHRISTMAS.

Alexander Allen makes oath that he was well acquainted with defendant, Richard Christmas, in the years 1839 and 1840, and ever since, and knows he was in Madison county, State of Mississippi, during the month of January, 1840, and up to the 11th February, 1840. The time he is not able to fix definitely, from the circumstances that Richard Christmas was negotiating a large trade for land and negroes with Thos. H. and Henry Christmas in said county of Madison, which trade was of public notoriety, and often talked of by affiant's family, which trade was made on the 11th day of February, 1840, by defendant, W. B. Norfleet; and affiant distinctly recollects that Mrs. Christmas, wife of defendant, was taken violently ill at affiant's house, some time in the month of January, 1840. Defendant was in daily intercourse with affiant during his wife's illness, and during his stay in said Madison county; and defendant spent the greater portion of his leisure time at affiant's house, in Madison county, which was some two miles from the property he was trading for.

ALEX. ALLEN.

Sworn to and subscribed before me, this 18th day of December, 1857.

ELISHA EASTWOOD,
J. P., Parish of Point Coupee, La.

Affidavit of Simmons.

Kentucky, Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

I was well acquainted with Christmas in the year 1839 and 1840, and ever since. I know defendant was in Madison county, Miss., during the first part of January, 1840. This affiant recollects distinctly, from the fact that defendant paid affiant a large debt about the first part of January, 1840, for Thomas and Henry Christmas, say about $19,000; and I recollect afterwards of having a conversation with defendant at Livingston, in said county of Madison, about the middle of the month of January, 1840, about the title of a tract of land in said county, once owned by defendant, and at that time owned by affiant. At this interview defendant explained the title to affiant's entire satisfaction, which affiant was very uneasy about. At the time defendant was trading with Thos. H. and Henry Christmas, of Madison county, Miss., for a tract of land and negroes in said county, which trade defendant did make in connection with W. B. Norfleet, on the 11th February, 1840, as I see by copies of deeds, and I recollect it was then about 1st of February, of my own recollection; these facts enable me to fix dates.

JOHN SIMMONS.

Sworn to and subscribed before me, this, the eighth day of January, A.D. 1858.

JOSEPH A. YOUNG, [SEAL.]
J. P.

Affidavit of P. Fern.

Kentucky, Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

I was well acquainted with R. Christmas in the year 1839 and 1840 and ever since, and know he was in Madison county, Mississippi, the last of January, 1840. The time I am able to fix from the circumstance that I was employed in the fall of 1839 by defendant to make a canal of several miles length on his plantation, in

Warren county, Mississippi, to his overshot in and mill, just completed by defendant; for which defendant agreed to pay affiant a stipulated price, and pay monthly for the amount of work done, so as to enable affiant to pay his hands who he had by the month; all of which contract was complied with by defendant by payment in person, except the month of January, 1840, during which time he was absent; and on the last of January, 1840, he sent me, by a servant, inclosed in letter directed to his overseer, John Snow, the sum of $200, from Madison county, Mississippi, which letter Snow read me and handed me the money, the amount being much less than was due me monthly; and being unable to settle with my hands, most of them quit, causing affiant much trouble and vexation. On or about the 15th February, 1840, defendant returned from Madison county to Warren county, and settled with me in full.

his
PETER ⋈ FEARN.

Sworn to and subscribed before me, this 4th day of January, 1858.

L. R. HOUGHTON.

Thomas H. Christmas.

Kentucky, Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

This day personally appeared before the undersigned, William S. Cook, acting J. P. in and for the county of Bolivar, Mississippi, Thomas H. Christmas, who makes oath that he is the brother of defendant in the above stated cause; that he was in close communication with the defendant in the years 1839 and 1840, and ever since. That he knows that the defendant was in the county of Madison, State of Mississippi, during the entire months of January, 1840, a fact within the positive knowledge of affiant, and in which he cannot be mistaken. The following circumstances, a portion of the many reasons whereby affiant is able to speak with more than ordinary confidence, relative to a circumstance so long elapsed, to wit: defendant, with his family, came to the county of Madison, Mississippi, on the last day of December, 1839, and stopped at the house of Alexander Allen in said county of Madison, Mississippi. Defendant at that time resided in Warren county, Mississippi. Affiant lived but a few miles from Allen's. On the first day of January, 1840, defendant came to affiant's house, and on that day, in behalf of himself and partner, William B. Norflett, contracted with affiant and his brother Henry Christmas for the purchase of a large tract of land and some 80 ne-

groes, the said property being in the county of Madison, Mississippi. This trade was not carried into effect until the 11th February, 1840, between which periods affiant was in daily intercourse with defendant. On or about the 15th day of January, Mrs. Christmas, wife of defendant, was taken violently ill at the house of Alexander Allens, residing in said county with affiant at that time, to wit, the county of Madison aforesaid. Affiant was summoned to her place of sickness, and for several days her lifetime was almost despaired of. Affiant and defendant were in daily attendance on her, affiant residing a few miles from Allen's. Affiant points with certainty to the period from various circumstances, and among others he recalls one or two tending to refresh his memory. On the 18th and 19th January, 1840, "General Andrew Jackson" was in the city of Jackson, Mississippi, the invited guest of the State; a circumstance in the history of that city which affiant well remembers, as well as the time when, and consultation with the journals of that day published, affiant finds his recollection entirely correct. Affiant was much disappointed in not being able to see his favorite chief at the time mentioned, on the account of the severe illness of his sister, defendant's wife. Affiant remained with defendant's sick wife during this time, and on the 26th day of January, 1840, I wrote an order to defendant for $500; the order I sent to defendant by a slave boy called Leroy, to the defendant, still remaining at said Allen's house with his sick wife. The boy returned with the money, and on the 11th day of February, 1840, when the trade was closed, the money was settled for by me, neglecting, however, to take up the order, which defendant found some five days since among his papers, which I attach and make a part of this affidavit and mark "M." I know defendant did pay one John Simmons a large debt for affiant and Henry Christmas, amounting to about $19,000 some time between first and middle of January, 1840, in said Madison county, Mississippi. Affiant states it's impossible that defendant could have visited New Orleans in the month of January, 1840, and up to the 11th February, same year, with affiant's knowledge, or have visited said city, by the most speedy mode of time at that day, would have required an absence of at least five days, this without allowance for detention any way whatsoever, embracing only the time of travel; with the usual incidents delays of a journey, the time estimated would be at least double the above time. From all the above and foregoing facts, to which affiant's memory points, refreshed by memorandum papers, which plase the question in affiant's mind beyond doubt, and from the fact that affiant was daily and almost hourly intercourse and correspondence with defendant during the said month of January, 1840, affiant unhesitatingly states defendant was not at any time during the month of January, 1840, and up to the 11th February, same year, in the city of New Orleans, but during said period was in the positive of affiant in county of Madison, State of Mississippi.

THOMAS H. CHRISTMAS.

Mississippi, Bolivar County.

Subscribed and sworn to by Thomas H. Christmas before me, this 3d day of February, 1858.

WM. S. COOK,
J. P. B.

C. W. Allen.

Jefferson County, Kentucky, Circuit Court.

RUSSELL
v.
CHRISTMAS.

C. W. Allen makes oath that he was well acquainted with Richard Christmas, the defendant, in the years 1839 and 1840 and ever since, and knows that he was in Madison county, Mississippi, on the 30th day of January, 1840, and was there some weeks before and after that time; and the reason that he is able to fix the date is because that day he wrote a letter at his plantation in said county of Madison to defendant, who was at that time on the plantation of Henry Christmas, in said county of Madison, requesting defendant to pay Wm. McMurtry and John G. Ott $500, which defendant paid according to request. McMurtry and Ott were residing at that time in said county of Madison, which letter is hereto attached and made a part thereof, as and additional why the affiant is certain that defendant was in said county before and after the said day. He well recollects that defendant and W. B. Norfleet purchased a tract of land and negroes from Thomas H. and Henry Christmas, who executed a deed to them, and to secure the purchase-money retained, mortgage on the 11th February, 1840, and this affiant was a witness to the deed; certified copies of said deed and mortgage are hereto attached and made a part hereof; and for a further reason this affiant well knows that defendant before and after 30th January, 1840, was negotiating said trade, in which it was a condition that defendant should assume the payment of a large debt due by Thomas H. and Henry Christmas to John Simmons, who lived Allotta county, Mississippi, but owned a plantation in Madison county. Defendant had much difficulty and delay in arranging said debt; often talked to affiant about the trade and his difficulties, and affiant often talked to Simmons about arranging the debt; and while defendant was in Madison county negotiating this trade, defendant remained the greater part of his time in affiant's house, so that affiant was in almost daily intercourse with defendant during his stay in Madison county, say from the 1st day of January, 1840, to the 11th day of February, 1840.

C. W. ALLEN.

State of Louisiana, City of New Orleans.

I, Wm. Shannon, a comr. of the State of Kentucky, in and for the city of New Orleans, State of Louisiana, duly commissioned and qualified, do hereby certify that C. W. Allen appeared before me and signed the above document, and made oath that the statements therein contained are true, to the best of his knowledge and belief.

In faith whereof I have hereunto signed my name, and [SEAL.] affixed an impress of my official seal, at New Orleans, this 14th day of December, A.D. 1857.

WM. SHANNON,
Commissioner.

Letter referred to.

PLANTATION, 30th Jan., 1840.

R. CHRISTMAS.

Dear Sir: Mr. Perkins would not pay your order, having an assets, and for further reasons. This has put me to some inconvenience; please leave $500 with Mr. McMurtrie and John G. Ott, and much oblige

Yours,

CHAS. W. ALLEN.

Deed and Mortgage referred to.

Christmas and Christmas, deed, Christmas and Norfleet.

Received for record 15th, and recorded 29th Feb., 1840.

This indenture, made and entered into this 11th day of February, A.D. 1840, between Henry Christmas and Ann D. Christmas, his wife, of the county of Madison and State of Mississippi, and Thomas H. Christmas, of the same county and State, of the one part, and Richard Christmas, of Warren county, and William B. Norfleet, of the same county and State aforesaid, of the other part, witnesseth, that said Henry Christmas and wife, and Thomas H. Christmas, for and in consideration of the sum of $80,000 to them in hand paid at and before the sealing and delivery of the presents, the receipt whereof is hereof is hereby acknowledged, have given, granted, bargained, and sold, and by these presents, do give, grant, bargain, and sell unto the said Richard Christmas and Wm. B. Norfleet, and their heirs and assigns, forever, a certain tract or parcel of land situate, lying, and being in the county of Madison aforesaid, being the same land which is embraced in the following subdivisions, to wit: The south half of section 35, in township G., range 1 east; section 2; the west half of N. W. quarter of section 1; the west half of the southwest quarter of section 1; the east half of section 10, and 95

acres in section 4, in township 8, range 1 east, bounded on the south side by the southern boundary of said section 4, and extending south in said section, containing in all 1535 acres, be the same more or less, with the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and all the estate, right and title of them, the said Henry Christmas and wife, and Thomas H. Christmas, of, in and to the same and every part and parcel thereof, and for the same consideration, the said Henry Christmas and Thos. H. Christmas have bargained, sold, and delivered, and by these presents, do bargain, sell, and deliver unto the said Richard Christmas and Wm. B. Norfleet, and to their heirs and assigns forever, the following negroes, with the increase of the females, to wit:

Adam,	about	25	years	of age.	Anderson,	about	25	years	of age.
Cudjo,	"	25	"	"	Jim,	"	30	"	"
Henry,	"	30	"	"	Davy,	"	35	"	"
Reuben,	"	30	"	"	Albert,	"	25	"	"
Mark,	"	45	"	"	John,	"	20	"	"
Aaron,	"	25	"	"	Aaron,	"	20	"	"
Pomp,	"	25	"	"	Jerry,	"	30	"	"
Billy C.,	"	30	"	"	Henry,	"	22	"	"
Mingo,	"	25	"	"	Cato,	"	18	"	"
Robert,	"	25	"	"	Noah,	"	30	"	"
Jesse,	"	35	"	"	Ned,	"	35	"	"
Moses,	"	25	"	"	Paul,	"	35	"	"
Edmond,	"	45	"	"	Daniel,	"	16	"	"
Charles,	"	15	"	"	Isaac,	"	12	"	"
Shade,	"	12	"	"	Granville,	"	14	"	"
Dick,	"	15	"	"	John,	"	22	"	"
Ben,	"	13	"	"	Tom,	"	20	"	"
Peter,	"	16	"	"	Ned,	"	18	"	"
Stump,	"	25	"	"	Billy,	"	25	"	"
Rives,	"	30	"	"	Will,	"	30	"	"
Spencer,	"	30	"	"	Sarah,	"	18	"	"
Maria,	"	28	"	"	Mary,	"	20	"	"
Mahala,	"	20	"	"	Cloe,	"	20	"	"
Ann,	"	25	"	"	Lydia,	"	18	"	"
Mary,	"	16	"	"	Abbey,	"	20	"	"
Maria,	"	27	"	"	Hannah,	"	20	"	"
Ann,	"	20	"	"	and her child.				
Viney,	"	20	"	"	Harriett,	"	25	"	"
Celia,	"	15	"	"	Peggy,	"	18	"	"
Caroline,	"	24	"	"	Eliza,	"	16	"	"
Dolly,	"	18	"	"	Mary,	"	18	"	"
Eady,	"	14	"	"	Emily,	"	14	"	"
Caroline,	"	16	"	"	Jane,	"	25	"	"

Betsy,	about	16	years	of age.	Dorcas,	about	20	years	of age.
Emily,	"	10	"	"	Frazier,	"	8	"	"
Julia,	"	20	"	" and her child.					
Aggy,	"	45	"	"	Susan,	"	16	"	"
Julia Ann,	"	10	"	"	Esther,	"	6	"	"
Blount,	"	4	"	"	Jackson,	"	9	"	"
Mingo,	"	12	"	"	Hagar,	"	5	"	"

and Washington, about 5 years of age.

Also, 32 head of mules, and 6 horses, and stock of cattle and hogs, farming utensils, wagons and carts, the corn and fodder, oats, and bacon, and blacksmith's tools, on or connected with the plantation on the land and premises hereby sold and conveyed, and the household and kitchen, now in the dwelling-house on the premises, and one pleasure carriage.

To have and to hold the land and premises hereby conveyed, with the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the negroes and other property before mentioned, with the increase of the females of the negroes aforesaid, unto them the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, to his and their only proper use, benefit, and behoof forever. And the said Henry Christmas and wife, and Thos. H. Christmas, for themselves, their heirs, executors and administrators, hereby covenant, agree to and with the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, that the before described land and bargained premises against the claim or claims of all and every person or persons whatsoever, unto the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, they do and will warrant and forever defend by these presents.

And the said Henry Christmas and Thos. H. Christmas, hereby covenant and agree to and with the said Richard Christmas and Wm. B. Norfleet, their heirs and assigns, that the negroes aforesaid are sound, sensible, and healthy, and slaves for life.

In testimony whereof the said Henry Christmas, his wife, and Thos. H. Christmas, have hereunto set their hands and seals the day and year above written.

H. CHRISTMAS, [SEAL.]
THOS. H. CHRISTMAS, [SEAL.]
ANN. D. CHRISTMAS. [SEAL.]

Signed, sealed, and delivered in presence of
CHAS. W. ALLEN,
A. G. BENNETT.

State of Mississippi, Madison County.

Personally appeared before me, a justice of the peace, of said county, the within named Henry Christmas and Thos. H. Christmas,

who acknowledged that they signed, sealed, and delivered the foregoing deed of conveyance to the said Richard Christmas and Wm. B. Norfleet, on the day and year therein named, as their act and deed, and at the same time and place, personally appeared before me, also, Ann D. Christmas, wife of the said Henry Christmas, and being by me examined privately and separate, and apart from her said husband, she acknowledged that she had signed, sealed, and delivered, the foregoing deed of conveyance to the said Richard Christmas and Wm. B. Norfleet, freely and voluntarily, without any fear, threats, or compulsion from her said husband, on the day and year therein mentioned, as her voluntary act and deed.

Given under my hand and seal this 13th day of February, 1840.

WILL. DE'HART, [SEAL.]
J. P.

State of Mississippi, Madison County, *set.*

I, John T. Cameron, clerk of the Probate Court of said county, hereby certify the foregoing instrument to be a true transcript from the records of my office, book of deeds, 429, 430, and 431.

Given under my hand and seal of office at Canton, this 8th day of February, A.D. 1843.

JOHN T. CAMERON, [SEAL.]
Clerk.

The State of Mississippi, Bolivar County, *set.*

I, Andrew B. Dodd, clerk of the Probate Court of said county, do certify that the within and foregoing deed of conveyance and certificates, were, on the 21st day of March, 1843, filed in my office for record, whereupon I have the same of record, in book of deed, B., pages 465, 466, 467, and 468.

Given under my hand and private seal (there being no seal of office), this 26th day of April, A.D. 1843.

A. B. DODD,
Clerk.

Mortgage referred to.

Christmas and Norfleet, deed trust, Christmas and Christmas.

Received for record 27, and recorded 29th February, 1840.

This indenture, made and entered into this 11th day of February, A.D. 1840, between Richard Christmas and Mary E. his wife, of the county of Warren and State of Mississippi, and Wm. B. Norflett, of the county of Madison and State aforesaid, of the one part, and Henry Christmas and Thomas H. Christmas of the said county of Madison and State aforesaid, of the other part, witnesseth, that whereas the said Richard Christmas and Wm. B. Norfleet are justly

indebted to the said Henry Christmas and Thomas H. Christmas, in the sum of $60,392 60cts., for which they have executed and delivered their seven several promissory notes, bearing even date with these presents, as follows, to wit: two for the sum of $6500, payable to the said H. and T. H. Christmas, or order, on or before the 1st day of March, in the year 1841, negotiable and payable at the Commercial Bank at New Orleans. Two for the sum of $6500, payable in like manner as the last, on or before the 1st day of March, in the year 1842. One other for the sum of $13,000, negotiable and payable as aforesaid, on the 1st day of March, 1843; one other for the sum of $13,000, negotiable and payable as aforesaid, on or before the 1st day of March, 1844; and one for the sum of $8392 60cts., negotiable and payable as aforesaid, on or before the 1st day of March, 1845; all of which notes are written in the face thereof, "Secured by mortgage on real estate and slaves."

And the said Richard Christmas and Wm. B. Norfleet, are anxious and desirous to secure the punctual payment of the said seven promissory notes as they respectively fall and become due; now therefore this indenture witnesseth, that the said Richard Christmas and W. B. Norfleet, for and in consideration of the premises, and for the further consideration of $10 to them in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do give, grant, bargain, and sell, unto the said Henry Christmas and Thos. H. Christmas, and to their heirs and assigns forever, a certain tract or parcel of land, situate, lying, and being in the county of Madison aforesaid, being the same land which is embraced in the following subdivisions, to wit: the south half of sec. 35, in township 9, range 1 east; sec. two; the west half of the northwest quarter of sec. 1; the west half of the southwest quarter of sec. 1; the east half of sec. 10, and 95 acres in sec. 4, in township 8, range 1 east; bounded on the south side by the southern boundary of said sec. 4, and extending north in said section, containing in all 1535 acres, be the same more or less, with the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and all the estate, right, and title, of them the said Richard Christmas and wife, and Wm. B. Norfleet, of and to the same and every part and parcel thereof, and all the rents, issues, and profits thereof, and for the like and the same consideration, the said Richard Christmas and Wm. B. Norfleet, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, unto the said Henry Christmas, H. Christmas, the following negroes slaves for life, and their increase, to wit:

Adam,	20 years of age.		Anderson,	25 years of age.	
Cudjo,	25 "	"	Jim,	30 "	"
Henry,	30 "	"	Davy,	25 "	"
Reuben,	30 "	"	Albert,	22 "	"

Mark,	45	years of age.	Aaron,	20	years of age.
Aaron,	25	" "	Jerry,	30	" "
Pomp,	22	" "	Henry,	22	" "
Billy C.,	30	" "	Cato,	18	" "
Mingo,	25	" "	Noah,	30	" "
Robert,	25	" "	Ned,	35	" "
Jesse,	35	" "	Paul,	35	" "
Moses,	25	" "	Daniel,	16	" "
Edmund,	45	" "	Isaac,	12	" "
Charles,	15	" "	Granville,	14	" "
Shade,	12	" "	John,	22	" "
Dick,	15	" "	Tom,	20	" "
Ben,	13	" "	Ned,	18	" "
Peter,	16	" "	Billy,	25	" "
Stump,	25	" "	Will,	30	" "
Rives,	30	" "	Sarah,	18	" "
Spencer,	30	" "	Mary,	20	" "
Maria,	28	" "	Cloe,	20	" "
Mahala,	20	" "	Lydia,	18	" "
Ann,	25	" "	Abby,	20	" "
Mary,	16	" "	Hannah,	20	" "
Maria,	27	" "	and her child.		
Ann,	20	" "	Nelly,	20	" "
Viney,	35	" "	Celia,	15	" "
Harriett,	25	" "	Caroline,	24	" "
Peggy,	18	" "	Dolly,	18	" "
Eliza,	16	" "	Eady,	14	" "
Mary,	18	" "	Caroline,	16	" "
Emily,	14	" "	Betsey,	16	" "
Jane,	25	" "	Emily,	10	" "
Dorcas,	20	" "	Julia,	20	" "
Frazier,	8	" "	and her child.		
Aggy,	45	" "	Susan,	16	" "
Julia Ann,	10	" "	Esther,	6	" "
Blount,	4	" "	Jackson,	9	" "
Mingo,	12	" "	Hagar,	6	" "
John,	20	" "	Washington,	5	" "

Also 32 head of mules and horses, and the stock of cattle and hogs; farming utensils, wagons and carts, and blacksmith tools, on or connected with the plantation, on the land and premises hereby sold and conveyed; the land and negroes, and other property hereby conveyed being the same land and negroes and a portion of the other property, which by a deed of bargain and sale, bearing even date with these presents, was conveyed by the said Henry Christmas and wife, and Thomas H. Christmas, to said Richard Christmas and Wm. B. Norfleet. And the object of this conveyance is to secure to the said

Henry and Thomas H. Christmas, and their heirs and assigns, the payment of the debt aforesaid, from the profits of the plantation and negroes aforesaid; and said Richard Christmas and Wm. B. Norfleet, now agree to appropriate the said profits to the said object.

To have and to hold the land and premises hereby bargained and sold, with the hereditaments and appurtenances thereunto belonging or in anywise appertaining, with the rents, issues, and profits thereof, and the negroes and other property aforesaid, with the increase of the females of said negroes, and all the profits, production, and produce of the labor of the said negroes, unto them the said Henry Christmas and Thomas H. Christmas, their heirs and assigns, to their and their only proper use and benefit and behoof forever.

Provided, however, and this conveyance is made on condition that should the said Rd. Christmas and Wm. B. Norfleet well and truly pay the sum of money aforesaid, and each and every part thereof, when and as each of the promissory notes aforesaid fall and become due, and all costs, interest, and charges which may accrue thereon, then and in that count this conveyance shall be void, and the estate thereby conveyed shall cease and be determined; otherwise, to be and remain in full force and effect.

In testimony whereof, the said Richard Christmas and Mary E., his wife, and William B. Norfleet, have hereunto set their hands and seals the day and year first before written,

RD. CHRISTMAS. [SEAL.]
WM. B. NORFLEET. [SEAL.]
MARY E. CHRISTMAS. [SEAL.]

Signed, sealed, and delivered
in presence of

State of Mississippi, Madison County.

Personally appeared before me, a justice of the peace, the within-named W. B. Norfleet, who acknowledged that he signed, sealed, and delivered the within deed of mortgage and conveyance to the said Henry and Thomas H. Christmas, on the day and year therein specified, for the purpose therein named, as his act and deed.

Given under my hand and seal this 25th day of February, 1840.

WILL. D. HART, [SEAL.]
Justice of the Peace.

The State of Mississippi, Warren County.

Personally appeared Richard Christmas before me, Edward R. Warren, an acting justice of the peace an ex-officio notary public for said county, and acknowledged that he signed, sealed, and delivered the within deed of mortgage and conveyance on the day and

year therein named, and for the purpose therein specified, as his act and deed. Also personally appeared Mary E. Christmas, wife of the said Richard Christmas, before me, Edward R. Warren, an acting justice of the peace and ex-officio notary public as aforesaid, and being by me privately examined, separate and apart from her said husband, acknowledged that she signed, sealed, and delivered the within deed of conveyance and mortgage as her voluntary act and deed, without any fear, threats, or compulsion of her said husband, on the day and year therein named, and for the purposes therein specified.

Given under my hand and seal this the 22d day of February, 1840.

EDWARD R. WARREN, [SEAL.]
Justice of the Peace and Ex-officio Notary Public.

Affidavit of W. A. Lake.

Kentucky, Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

William A. Lake states, on oath, that he is acquainted with the character of Thomas H. Christmas, Hugh M. Markham, A. M. Young, C. W. Allen, Alexander Allen, and John Simmons; that from his knowledge of the above-named persons, he would believe them, and believes that any statements made by them is entitled to credit.

W. A. LAKE.

Sworn and subscribed before me, this 16th February, 1858.
L. S. HOUGHTON,
Justice of the Peace.

A. Burnett's Affidavit.

State of Mississippi, Warren County, *ss.*

In Jefferson Circuit Court, Kentucky.

RUSSELL
v.
CHRISTMAS.

Personally appeared before me, Lawrence S. Houghton, a justice of the peace of said county and State, A. Burnett, who states on his oath that he is acquainted with the character of Thomas H. Christmas, Hugh M. Markham, A. M. Young, C. W. Allen, and John Simmons; that from his knowledge of the above-named persons, he

would believe them, and believe that any statement made by them are entitled to credit.

A. BURNETT.

Sworn and subscribed, before me, this 16th day of February, 1858.

L. S. HOUGHTON,
Justice of the Peace.

Affidavits of A. M. Young and H. M. Markham.

State of Mississippi, Warren County.

Personally appeared before, L. S. Houghton, an acting justice of the in and for the county and State aforesaid, Alfred M. Young and Hugh M. Markham, who first being duly sworn states, that they have known John R. Davis, of New Orleans, for several years; that his character for truth and veracity is bad, very bad; and that they would not believe him on oath.

A. M. YOUNG.
H. M. MARKHAM.

Sworn and subscribed before me, this 5th day of February, A.D. 1858.

L. S. HOUGHTON,
Justice of the Peace.

State of Mississippi, Warren County, *ss.*

I, Lawrence S. Houghton, an acting justice of the peace in and for the county and State aforesaid, do certify that I am well acquainted with the standing and character of Alfred M. Young and Hugh M. Markham, whose names are subscribed above; and that their character for truth and veracity is good and unimpeachable.

Witness my hand this 5th day of February, 1858.

L. S. HOUGHTON,
Justice of the Peace.

State of Mississippi, Warren County.

I, Lawrence S. Houghton, an acting justice of the peace in and for the county and State aforesaid, do certify that I am well acquainted with Charles W. Allen, Alfred M. Young, Thomas H. Christmas, and Richard Christmas; and have known all of them for several years; and that their general character for truth and veracity is always has been good, and I would unhesitatingly believe them on their oaths.

In testimony whereof, I have hereunto set my hand and seal this 4th day of February, 1858.

L. S. HOUGHTON. [SEAL.]

Deposition of William M. Fleming.

State of Louisiana, City of New Orleans.

Deposition of William M. Fleming, taken on the 29th day of January, 1858, in the office of William Christy, in the city of New Orleans, State of Louisiana, aforesaid, &c., who deposes as follows:

That I was a pilot on the steamer Rodolph a portion of the years 1838 and 1839 and 1840, and up to the time of the seizure of the said boat in New Orleans; that I frequently saw Richard Christmas travelling on said boat; that it was understood and believed by the officers of the boat, himself among them, that the said Christmas was the owner or part owner of the boat, and he was treated as such; and I have a perfect recollection of seeing him on board before I left the boat, in 1840. I was well acquainted with the late William A. Wilson in the years 1838, 1839, and 1840; looked upon him as a man of limited means, so much so as to be unable to have purchased a steamer of the value of the Rodolph. I am of this opinion, because it was the habit of those in the steamboat business to communicate freely with such other about their business affairs.

W. M. FLEMING.

State of Louisiana, City of New Orleans.

I, Wm. T. Christy, commissioner of deeds for the State of Kentucky, duly appointed by the governor thereof, for the State of Louisiana, and authorized to certify depositions, do hereby certify that the foregoing deposition of Wm. M. Fleming was taken before me at the time and place and for the purposes named in the caption thereof, that the said Wm. M. Fleming was duly sworn by me before he gave his testimony, that the evidence he should in the action named, should be the truth and nothing but the truth, and thereupon testified as shown in the foregoing deposition by him subscribed, the statements of the witness being reduced to writing by me, and read to him and subscribed by him in my presence; and I further certify that none of the parties to the aforesaid cause were present at the taking of this testimony, except John W. Russell, one of the plaintiffs, and that about the time of the closing of this deposition, the defendant, Rd. Christmas, came with his counsel, Levi Price, Esq., and asked permission to read the several depositions taken and being taken before me in the above-named case, and that he was answered by the said Russell that he could not suffer him to see or read said depositions unless he, Christmas, would show him, Russell, all the ex parte depositions he had taken in the case, to which Christmas replied, that they were not in his possession, he having sent them

to Louisville, where the cause is pending; Christmas and his counsel then left, and I, said commissioner, continued and closed the examination of the said witness.

Given under my hand and official seal at the city of New Orleans, on this 29th day of January, A.D. 1858.

Fee, $10, paid by plaintiff.

WM. CHRISTY,
Commissioner of Ky. in La.

Deposition of J. R. Davis.

State of Louisiana, City of New Orleans.

Deposition of Jno. R. Davis, taken on the 29th day of January, 1858, in the office of Wm. Christy in the city of New Orleans, La., aforesaid, sworn, &c., says:

I was residing in Vicksburg, Mississippi, in the years 1838, '39, and '40. I was at that time well acquainted with the reputed owner and officer of the steamer Rodolph; in the latter part of the year 1839, Mr. A. Wilson was the active or acting captain of the said boat, as he continued to be up to the time of her seizure in New Orleans, say in the spring of 1840. During this time, it was understood by the public, as well as by myself, that the said boat was owned by the said Rd. Christmas, in whole or in part, he having the control of said boat. I was, at the time aforesaid, engaged in what was called the steamboat business, such as furnishing supplies, &c., to boats, which business made it necessary for me to board every boat landing at the wharf, which gave me an opportunity of becoming acquainted only with the officers, but with the owners of steamers generally. In this connection I understood distinctly that the said steamer Rodolph was owned by Rd. Christmas, and under this impression I furnished supplies to the said boat, from time to time, believing him to be good for the amount of my bills in case the boat should not be so. I was personally acquainted with Rd. Christmas at the time, and I am now acquainted with him, and know that he travelled on said boat at the time specified. I was well acquainted with the late W. A. Wilson, from 1836 to 1840, and to the time of his death; that in the crisis of 1836 and 1837, he, Wilson, failed in business in Manchester, Miss., and I never heard or knew of acquiring sufficient property after his failure to enable him to purchase a steamer of the value of the Rodolph, or any other boat; and from my intimacy with the said Wilson and his family, I am very sure I am correct in my estimate of his, the said William's means, the said Wilson and his wife having frequently made my house their home when in Vicksburg.

J. R. DAVIS.

The commissioner's certificate of attestation to the above deposition is in due form.

Deposition of Charles S. Miller.

State of Louisiana, City of New Orleans.

Deposition of Chas. S. Miller, taken on the 29th day of January, 1858, in the office of Wm. Christy in the city of New Orleans, La., says:

Question by J. W. Russell, in person. Were you or not deputy U. States Marshal under your late father, Anderson Miller, for the State of Mississippi, during the years 1841 and 1842?

Answer. I was.

2d. Do you or not know that many executions for large amounts were issued against Rd. Christmas from the Circuit Court of the U. S. for the Southern District of Mississippi, which were returned "nulla bona?"

Ans. I do; that is, I know, as deputy marshal aforesaid, that these writs or executions were issued during the years 1841 or '42.

3d. Were you or not one of the clerks on board the steamer Rodolph the latter part of the year 1838, and the early part of 1839?

Ans. I was.

4th. Do you or not know that the said steamer was owned by the said Rd. Christmas at the time you were acting as clerk aforesaid?

Ans. Such was my impression, for I understood he had purchased the said boat from John W. Russell and Churchill Samuel.

5th. Did you or not often see Rd. Christmas on board said steamer at the time you were acting as clerk aforesaid, and was he not recognized by the officers generally as owner of the boat?

Ans. Yes.

CHAS. S. MILLER.

The certificate of attestation of the commissioner to the above is in due form.

C. B. Church.

State of Louisiana, City of New Orleans.

The deposition of Chas. B. Church, taken on the 1st day of February, A.D. 1858, in the office of Wm. Christy, in the city of New Orleans, State of La., to be read, &c., sworn, says:

In the fall of 1838 I was employed on board the steamer Rodolph, as engineer, at the instance of Rd. Christmas, who informed me that he had purchased said steamer from Capt. John W. Russell, and several thousand dollars were furnished me to pay for the repairs of the boat at Cincinnati, which I placed in the hands of H. M. Ryan,

who acted as the agent of the boat; accordingly, I proceeded to Cincinnati and repaired the boat, and when these repairs were nearly completed, as I supposed, T. H. Christmas and others of the Christmases came on board and objected to the plain manner in which the boat was being furnished, and requested or directed that furniture of fine quality should be procured, when I placed the matter in the hands of the said Ryan, who procured new furniture, which, with the other affairs, were said to have cost 15 or $16,000. I know that the Christmases raised the funds to pay for these repairs, furniture, &c., by drafts. I also know that the Christmases all took an active part in the direction of the repairs of the boat, as well as in the furnishing said boat. I also know that the said Christmases frequently travelled on said boat after she was repaired. I quit this steamer in May or June, 1839.

CHAS. B. CHURCH.

The certificate of attestation by the commissioner to the above deposition is in due form.

T. B. Winston.

The deposition of Thomas B. Winston, taken on the first day of February, A. D. 1858, in the office of Wm. Christy, in the city of New Orleans, La., to be, &c. &c., sworn, says:

I kept a grocery store in 1841 in the city of New Orleans, and was in the habit of supplying steamboats with such supplies in my line as they usually used. To the best of my recollection (my books having been burned) the steamer Rodolph owed me for supplies in the spring of 1841, the sum of $300 41, and I am brought more particularly to this recollection by refreshing my memory, by reference to a memorandum to which I have referred, which amount was settled by Capt. John W. Russell.

THOS. B. WINSTON.

The certificate of attestation by the commissioner to the above deposition is in due form.

The following is the affidavit of R. Christmas, filed in the foregoing cause, to wit:

Affidavit of R. Christmas.

State of Mississippi, Warren County.

Personally appeared before me, L. S. Houghton, an acting J. P. and ex-officio notary public, in and for said county and State, Rd. Christmas, who, being duly sworn, says under oath, that he is the defendant in a certain suit pending in the Circuit Court of Jefferson

county, Ky., wherein John W. Russell is plaintiff, he, affiant, is defendant; that in the motion now pending in said cause for a new trial, John R. Davis, now of New Orleans, and formerly of Vicksburg, was busily engaged in said city of New Orleans, La., in getting up the testimony by way of *ex parte* affidavits for said plaintiffs, and he is satisfied, if time is allowed him by said court, he can disprove the whole of it, taken in New Orleans. That he is satisfied, that he can prove from the actions and conduct of said John R. Davis, that he hunted up the witnesses, and told them what to swear to. That he can prove that said Jno. R. Davis is not to be believed under oath; that he applied to Wm. Christy, the notary public, before whom said *ex parte* affidavits or depositions were taken in New Orleans, on the 28th and 29th of January, A. D. 1858, to cross-examine the witnesses for said plaintiff Russell, but the plaintiff and said notary public refused to allow him to do so. He requested said notary to make him a minute on the record of the evidence (M. Pearce, his attorney, being also present) in said cause of his application and said reproval, which the notary promised to do, but whether he did so or not, the affiant is not informed. He is satisfied that if he had had an opportunity so to cross-examine said witnesses, he could have wholly invalidated their statements. That said John R. Davis, who had testified or given his affidavit in said cause, told affiant he knew nothing about the cause, and would not testify on it, yet his testimony was at the time more than half taken. Affiant procured a police officer of said city of New Orleans, by the name of John Andrew Ross, to watch said Davis to find out where and when he would testify in said cause, and what efforts said Davis was making to hunt up testimony therein, and also understood from his friend, Col. A. M. Young, that said Davis endeavored to mislead and deceive said Young as to what Young was about to swear to in said cause, and tried to place a false construction on what he, Young, would swear to. These causes and information from said police officer induced said affiant to believe that said Davis if possible to procure false testimony in said cause. Whether he has succeeded in doing so or not, affiant does not know, because he cannot learn what has been sworn to herein. He is satisfied that if time is allowed him he will be able to prove the above facts, and many others, going to show that said Davis was employed by some one to get up affidavits in said cause, as well as to procure others to swear falsely therein. The facts he can prove on said Davis, as he believes, from the earnest and active manner of said Davis in getting parties to swear, and the devices, false statements, and deception used by said Davis to him in relation thereto. He has been informed, one Fleming, whose affidavit was taken in New Orleans, in said cause, on the 28th of February, 1858, swore that affiant was the reputed owner of the steamer Rodolph, in the year 1840. Affiant can wholly disprove that he was such owner at that time, and that he had an interest

therein, at that time; said Davis also deceived said affiant as to the name and occupation of said witnesses Fleming, and without the aid of watching of said police officer he would not have been enabled to know the above facts, such was the deception and artifice of said Davis in the premises. He has not seen or ascertained what said parties swore to, although he was endeavored in person and since by telegraph to do so. The above statements are not furnished on his own knowledge altogether, but from statements derived from those in whom he has confidence, and his own knowledge.

R. CHRISTMAS.

Sworn to and subscribed, before me, this 6th day of February, A. D. 1858.

L. S. HOUGHTON,
J. P.

Affidavit of J. W. Russell.

Jefferson Circuit Court.

Affiant says that at the last trial of this cause he had summoned as a witness Z. M. Shirley, who was in attendance to prove that Churchill Samuels was a good business man; that W. A. Wilson, although a clever young man, was unable to purchase such a steamboat as the Rodolph, that he had no visible effects, and that from his knowledge of Churchill Samuel as a business man that he would not, in his judgment, in 1839 or 1840, have released R. Christmas from a debt of 5 or $6,000, and take said Wilson for the debt. He says that the affidavit of Thos. N. Lindsay for a continuance of this cause at the term at which it was tried, was in the papers of this cause when we went to trial, and the same had been in the papers from its date. He also expected to prove by Shinley that the usual wages for captains of steamboats, in the years 1839 and 1840, were $125 per month.

JOHN W. RUSSELL.

Subscribed and sworn to, by John W. Russell, this 23d February, 1858.

WM. F. BARRETT,
N. P.

D. Steel's Affidavit.

State of Mississippi, Warren County, *ss.*

Personally appeared before me, L. S. Houghton, a J. P. of the county and State aforesaid, David Steele, to me personally well known, who being first duly sworn according to law, states that he has known John R. Davis, of New Orleans, La., for several years, that his character for truth and veracity is bad, very bad, and that he would not believe him (said Davis) on oath.

DAVID STEELE.

Sworn to and subscribed before me this 5th day of February, A.D. 1858.

L. S. HOUGHTON,
J. P.

Mississippi, Warren County, *ss.*

I, L. S. Houghton, an acting J. P., of said county and State, do certify that I am well acquainted with the above-named David Steele, and that his character for truth and veracity is good and unimpeachable.

Witness my hand, this 5th day of February, A. D. 1858.

L. S. HOUGHTON,
J. P.

Fee 50 cents, paid by defendant.

Affidavit of A. Norton and A. Kelly.

The following is the affidavit of A. Norton and A. Kelly, to wit:

State of Louisiana, City of New Orleans.

Personally appeared before me, Alexander Norton and Archibald Kelly, both of the city of New Orleans, to me personally known, who being first been duly sworn by me, made oath that they have known John R. Davis for several years, that his reputation for truth and veracity is bad, and that they would not believe him, the said John R. Davis, under oath.

ALEXANDER NORTON.
A. KELLY.

Sworn to and subscribed before me, William Shannon, a commissioner of the State of Kentucky, in and for the city of New Orleans, Louisiana. In faith whereof, I hereunto sign my name, and affix an impress of my official seal, this 28th day of January, A.D. 1858.

WM. SHANNON,
Commissioner.

Affidavit of H. Hunt.

Jefferson Circuit Court.

RUSSELL
v.
CHRISTMAS.

Thomas H. Hunt says he is personally acquainted with Alexander Norton, of New Orleans, A. M. Young, and Thomas H. Christmas, of Mississippi, and know they are all men of highly respectable standing.

THOMAS H. HUNT.

Sworn to before me by Thomas H. Hunt, this 20th day of February, 1858.

H. C. PINDELL,
N. P. J. C.

Affidavit of C. Busham.

This affiant says, at the last term of this (the Jefferson Circuit Court), to wit, he was summoned by plaintiff, and was in attendance as a witness for Captain Russell, on the trial of this case, but was not examined; he would then have stated that he knew William A. Wilson well, and that he was not, during the years 1839, '40, or '41, able to purchase a steamboat of the value of the Rodolph, without aid from other parties; he was a clever young man, but his means were quite limited. I knew Churchill Samuel well; he was a good business man, and I have no idea that he would have releaved Christmas from a debt created of the sum of 5 or $6000, and taken said Wilson for the same, without the name of said Christmas being on the paper; this I state from my knowledge of said Samuel's business character. The usual wages of steamboat captains, in 1839, '40, and '41, was about $125 per month, to the best of my recollection.

CHAS. BASHAM, JR.

Jefferson County, *set.*

Subscribed and sworn to by Charles Basham, Jr., before me, February 23d, '58.

J. J. DOZIER,
Executor.

Affidavit of R. W. Burney.

State of Mississippi, Warren County.

Personally appeared before me, L. S. Houghton, an acting J. P. in and for the county and State aforesaid, R. H. Burney, to me personally well known, who being first duly sworn, states he has known John R. Davis, formerly of Vicksburg, for several years, and that his general character for truth and veracity has generally been very bad.

R. W. BURNEY.

Sworn to and subscribed before me, this 9th day of February, 1858.

L. S. HOUGHTON,
J. P.

Affidavit of Jas. Mather and F. Carter.

Affidavit of Jas. Mather.

Affiant says that he was pilot on the str. Nautilus, in December, 1839; that the boat left the city of Louisville in the later part of

December, 1839; that on that trip the said boat was ice-bound at Bond harbor, about 3 or 4 miles below Owensboro, Ky., where she was detained for some considerable time; the exact time I do not recollect at this time. I know that Mrs. Wilson and Mr. Carting were on board the boat that trip. Captain Wilson came on board the Nautilus, at mouth of Red river, and took his wife off board the Nautilus; the price of captains of boats in winter of 1839 and '40, was from $100 to $125 per month, as well as he recollects.

Subscribed and sworn to by Jas. Mather, this 25th Feb. '58.

W. F. BARRETT,
N. P. J. C.

Frank Carter says, that he was well acquainted with Captain W. A. Wilson, and that in 1838, '39, and '40, that he knew of no visible effect which he had; he was not regarded as a man of means; and at no time was he able to purchase such a boat as the steamer Rodolph; he was deemed to have no resources, except from his wages as captain of steamboats. He says, as well as he recollects, the price or wages of steamboat captains was from $100 to $125 per month, in the years 1839 and 1840.

FRANK CARTER.

Subscribed and sworn to, February 25th, 1858.

W. F. BARRETT,
N. P. J. C.

Letter referred to.

VICKSBURG, Dec. 19th, 1839.

Mr. CHURCHILL SAMUELS.

Sir: My draft for $6000 falls due in New Orleans on 1st January, given for steamer Rodolph, of which I fear I will not be able to pay at maturity. I shall endeavor to pay a part, say $2000 or $2500 of it, and must ask the favor to renew it for 90 days. Cotton being so very low, I dislike exceedingly to sell my interest in the boat. I have parted with, and am to recover my pay in 20 March. By extending the payment of this you will much oblige me; the unprecedented time is sufficient apology for the request. Let me hear from you immediately, and oblige,

Yours respectfully,
R. CHRISTMAS.

The following is the notice filed in the foregoing cause, to wit:

Notice.

NEW ORLEANS, Jan. 26th, 1858.

Mr. JOHN W. RUSSELL.

Sir: I hereby give you notice that I desire to be present, at the taking of any affidavits or testimony which you intend to take in the

city of New Orleans, during this month, for the purpose of being read as evidence in the case of John W. Russell *v.* R. Christmas, now pending in Jefferson Circuit Court, Kentucky. You can notify me of the time, day, and place, office, street, and number, by leaving notice for me at the office of Mr. J. Cartwell, No. 19 Camp st., Not. Pub. And I hereby further give you notice, that I shall object to the reading, as evidence in the above case, any affidavits or testimony taken in you behalf, without you notify me of the taking of the same, and giving me an opportunity of being present.

Yours, &c.,
R. CHRISTMAS.

Affidavit of J. Castell.

State of Louisiana, Parish of New Orleans, City of New Orleans.

I, Wm. Jos. Cartell, a notary public, in and for the parish of Orleans, State aforesaid, duly commissioned, sworn, and qualified, do hereby certify that on the evening of Tuesday, the 26th inst., at or about the hour of 10 o'clock P.M., in the rotunda of the St. Charles hotel, in this city. I served a duplicate original of the letter or notice on the other side, upon Mr. John W. Russell personally, at the request of Mr. R. Christmas. And I furthermore certify, that up to the present time (to wit, 2 o'clock P.M., of this day), no notice of the taking of affidavits or testimony has been left at my office by the said Russell.

In faith whereof I grant these presents under my signature, and the impress of my seal of office, at New Orleans, aforesaid, this 30th January, A. D. 1858.

W. J. CASTELL,
N. P.

State of Louisiana, City of New Orleans.

Personally appeared before me, a commissioner for the State of Kentucky, duly appointed by the governor thereof, to administer oaths, take depositions, &c., Wm. J. Castell, who, after being duly sworn according to law, by the undersigned commissioner, to declare the truth, deposes that the facts contained in the above certificate, signed by him in his official capacity of a notary public, are true.

W. J. CASTELL.

Sworn and subscribed before me, this 30th January, 1858.

R. P. HARRISON, [SEAL.]
Commissioner.

Bill of Sale.

The following is a bill of sale filed in the foregoing cause, to wit:

FRANKFORT, October 1, 1838.

Know all men by these presents, that we, P. & J. Swigert, C. & E. Samuel, Thos. N. Lindsay, Edw'd H. Watson, and John W. Russell, have bargained and sold, and delivered unto Richard Christmas, of ——— County, Miss., the steamboat "Rodolph," with her engine, tackle, apparel, and furniture, for the consideration of $18,000, the receipt whereof is hereby acknowledged; and do, by these presents, warrant the title of said boat free from all incumbrances, debts, and claims of all persons whatever, up to the first day of Sept. last past, when possession was given.

C. & E. SAMUEL,
E. H. WATSON,
TH. N. LINDSAY,
P. & J. SWIGERT,
JOHN W. RUSSELL.

District and Port of Cincinnati, to wit:

I, S. B. W. McLean, surveyor and inspector of the revenue, do certify that the within is a true copy of a bill of sale on file in this office.

Witness my hand and seal, this 12th day of February, and in the year 1858.

[SEAL.] S. B. W. McLEAN,
Surveyor and Inspector of the Revenue.

The following is the enrolment filed in the foregoing cause, to wit:

Enrolment.

Enrolment in conformity to an act of the Congress of the U. S. of America, entitled "An act for the enroling and licensing ships or vessels to be employed in the coasting trade and fisheries, and the regulating the same." Henry M. Ryan, having taken and subscribed the oath required by the said act, and having sworn that Richard Christmas, of Mississippi, is a citizen of the U. S., and sole owner of the ship or vessel called the "Rodolph," whereof ——— is at present master, and as he hath ——— is a citizen of the U. S., and that the said ship or vessel was built at Jeffersonville, Ia., as per enrolment No. 20, dated Louisville, May 8th, 1838, now surrendered in charge of owners, as per bill of sale on file, and in conformity to the late act of Congress, and this enrolment on certificate of inspectors of steamboats, boilers, and machinery, and said enrolment, having certified that the said ship or vessel has one deck, and no mast, and that her length is 143 feet, her breadth, 20 feet, 6 inches, her depth 4 feet, 6 inches, and that she measures 150 tons, and that she is a

steamer, has no galley and no figurehead; and the said *cut* having agreed to the descriptions and admeasurement above specified, and a sufficient security having been given, according to the said acts, the said steamer has been duly enrolled at the port of Cincinnati.

Given under my hand and seal at the port of Cincinnati, this 9th day of November, in the year 1838.

ROBERT PURSHEN,
Surveyor.

District and Port of Cincinnati, to wit:

I, S. B. W. McLean, surveyor and inspector of the revenue, do certify that the within is a true copy of enrolment, from the records in my office.

Witness my hand and seal, this 12th day of February, 1858.

[SEAL.] S. B. W. McLEAN,
Surveyor and Inspector of the Revenue.

The following is the Amended Bill of Exceptions.

Jefferson Circuit Court.

RUSSELL
vs.
CHRISTMAS.

Be it remembered, that on the trial of this cause, at the November term, 1857, after the evidence given, as shown by the former bill of exceptions herein, the defendant introduced and read the depositions of Elisha North, Stephen G. Whitehead, Alfred M. Young, Benj. S. Topham, Abram K. Swedes, Robt. W. Purney, Samuel Nelson, D. C. Bonham, and Duff Green (see page in record in this case, already filed in the clerk's office of the Court of Appeals), also a certified copy of a record of the Commercial Court of New Orleans, in suit No. 3631, of John W. Russell, &c., against W. A. Wilson (No. 1), and of a suit in the same court, No. 4056, of John W. Russell, &c., against W. A. Wilson (No. 2), both already in transcript at Court of Appeals.

The plaintiff then read the certified copy of a record of the Commercial Court of New Orleans, in suit No. 3635, of Wm. T. McCormick, against W. A. Wilson (see page 165), and also the deposition of L. Madison Day, B. Eagan, and J. Sidney Relf (see pages 190, 191), which, with the evidence set forth in the former bill of exceptions, was all the evidence, and thereupon, the jury found a verdict for the plaintiff for with interest from

And defendant filed and made, on 12th November, 1857, a motion for a new trial, on the following grounds, viz. (see page 158), and filed the affidavit of Wm. S. Bodley (see page 161).

And afterwards, on the 24th November, 1857, filed the following affidavit of defendant (see page 162), and on the 24th February,

1858, filed the affidavits of C. W. Allen, Alexander Allen, John Simmons, Peter Fearn, J. S. Brien, and two affidavits of Thomas H. Christmas (see pages 223, 216, 217, 218, 195, 219, for affidavits and exhibits attached), of Thomas H. Christmas, pages 192, 193, 194, affidavit of J. S. Brien, and exhibits referred to in his affidavit, pages 195 to 208, affidavit of A. Allen, page 216, of John Simmons, 217, Peter Fearn, 218, second affidavit of Thomas H. Christmas, page 219, C. W. Allen, 223 to 231.

And on the trial of the motion for a new trial, on 26th February, 1858, defendant also filed the affidavit of Frank Carter, with letter of Wilson attached to it, the affidavits of W. A. Lake, A. Bonwell, A. M. Young, H. M. Markham, and L. S. Houghton, certified. (Affidavit of Frank Carter, page 209 to 211, affidavit of W. A. Lake, page 238, A. Burwell, 238, Markham and Young, 230, L. S. Houghton, certificate, 240.)

And also filed the affidavits of T. H. Hunt, A. Norton, A. Kelly, W. J. Castell, R. W. Burney and R. Steele, and W. H. Sparks, and R. Christmas. (Affidavit of R. Christmas, page 248, A. Norton and A. Kelly, 253, T. H. Hunt, 254, R. H. Burney, 255, W. J. Castell, 258, D. Steele, 252.)

The plaintiff also filed the following affidavits, to wit, on 24th February, 1858, or on trial, those of Charles Burham, C. B. Church, J. W. Russell, Charles S. Miller, T. B. Winston, W. T. McCormick, W. M. Fleming, James Kelly, J. R. Davis, James Mathers, and Frank Carter, and the affidavit of Thomas N. Lindsay, dated November 7, 1857, which motion was overruled, to which defendant excepted, and now excepts, filed same day, read an enrolment of boat, with indorsement thereon to Wilson, at New Orleans, and also enrolment at Cincinnati to Christmas. Thereupon defendant asked a continuance of this motion. Affidavit of C. Barham, 254, Ch. B. Church, 246, J. W. Russell, 251, Ch. S. Miller, 244, Thomas B. Winston, 247, W. T. McCormick, 214, W. M. Fleming, 240, James Kelly, 212, John R. Davis, 242, James Mathers, 255, Frank Carter, 255, T. N. Lindsay, 2d enrolment, 260, which was all the evidence submitted to the court on the motion for a new trial. To which the defendant excepted at the time, and now excepts, and prays that his bill of exceptions be signed, enrolled, and made a part of the record, which is done accordingly.

P. B. MUIR. [SEAL.]

And at a court continued and held as aforesaid, on the 19th day of June, 1858, at the court-house, in the city of Louisville, "came the parties, by their attorneys, and then came the plaintiff, and on his motion, and it appearing from an inspection of the minutes of the court, made by the clerk of the court herein, on the 26th day of February, 1858, that an order of remittitue of $200 upon the judgment herein has been omitted by the clerk of this court to be made

an order herein, it is ordered that a "*nunc pro tunc*" order be now entered in conformity to said minute of this court. It is therefore ordered by the court, that a remittiture of $200 of said judgment rendered herein be, and the same is hereby, entered herein, to take effect, and to be applied as a credit on said judgment, as of the 1st day of March, 1841, to which order the defendant excepts.

And on the 31st March, 1859, the following mandate of Court of Appeals was filed in office, to wit:

Appeal from Jefferson Circuit Court.

State of Kentucky. Court of Appeals.

February 12, 1859.

R. CHRISTMAS et al., appellants,
against
J. W. RUSSELL, appellee.

The court being sufficiently advised, it seems to them there is no error in the judgment herein. It is therefore considered that said judgment be affirmed, which is ordered to be certified to said court.

A copy.

Attest, R. R. REVILL,
C. C. A.

Taxation of Plaintiffs' Costs.

Clerk, ...	$60 60
Record, ...	68 75
Depo'n, ...	41 50
Whole amount, . . .	$170 85

Attest, JAMES P. CHAMBERS,
Clerk.

State of Kentucky.

I, James P. Chambers, clerk of the Jefferson Circuit Court, in the State aforesaid, do hereby certify that the foregoing two hundred and sixty-six pages contain a full, true, and complete transcript of the record and proceedings had in the case therein mentioned; and I do further certify that the interlineations on pages 52, 118, 204, 158, 159, and 170, were made by me, in order to complete the same.

In testimony whereof, I hereunto set my hand as clerk [SEAL.] aforesaid, and affix the seal of said court, this 21st day of April, 1859, and in the 67th year of the commonwealth.

JAMES P. CHAMBERS,
Clerk.

State of Kentucky.

I, P. B. Muir, judge of the Seventh Judicial District, in the State aforesaid, and by virtue of my office sole judge of the Jefferson Circuit Court, in said State, do certify that James P. Chambers, whose signature is affixed to the foregoing certificate, is, and was at the time of signing the same, clerk of said court, and that his certificate and attestation is in due form of law.

Given under my hand, this 21st day of April, 1859.

P. B. MUIR.

"To the reading of which the defendant, by his counsel, objected, but the court overruled the objection, and permitted the same to be read in evidence. To which decision and ruling the defendant then and there, before the jury retired, excepted, and prayed this, his bill of exceptions, to be signed, sealed, enrolled, and made part of the record, which is done accordingly.

Given under my hand and seal, this 26th day of May, 1860.

S. J. GHOLSON. [SEAL.]

"*Verdict.*"

Upon their oaths do say, they find for the plaintiffs on the issue joined, the debt in the declaration mentioned, and assess the damages by reason the detention thereof, at six thousand five hundred and twenty-one $\frac{35}{100}$ dollars.

"*Judgment.*"

Therefore it is ordered by the court that the said plaintiff, John W. Russell, for the use of himself and Jacob Swigert, Philip Swigert, Edward H. Watson, and Thomas H. Lindsey, in his own right and for his use as administrator of Churchill Samuel, deceased, recover of and against the said defendant, Richard Christmas, the sum of five thousand six hundred and thirty-four $\frac{34}{100}$ dollars, the debt in the declaration mentioned, and also the sum of six thousand five hundred and twenty-one $\frac{35}{100}$ dollars, for damages sustained by reason of the detention of the debt aforesaid, by the jurors in form aforesaid assessed, with interest on said sums at the rate of six per centum per annum, and also his costs and charges by him about his suit in this behalf expended.

And the said defendant in mercy, &c.

On motion of defendant by attorney, it is ordered by the court that a credit of two hundred dollars, with interest from 1st March, 1841, be entered on the judgment aforesaid, said credit appearing on

the record filed herein, and having been omitted by mistake of the jury.

Writ of error bond tendered in open court, with William Yerger and Warren P. Anderson securities therein. Writ of error bond approved by the court, and writ of error and citation granted.

Writ of Error Bond.

United States of America, Southern District of Mississippi, *set.*

Richard Christmas, William Yerger, and Warren P. Anderson, are held and firmly bound unto John W. Russell, for his own and for the use of Jacob Swigert, Philip Swigert, Edward H. Watson, and Thomas H. Lindsey, in his own right and for the use of said Lindsey, as administrator of Churchill Samuel, deceased, in the just and full sum of twenty-four thousand four hundred dollars, lawful money of the United States, to be paid to the said John W. Russell et al. as aforesaid, their lawful attorneys, executors, administrators, or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated the 25th day of May, A.D. one thousand eight hundred and sixty.

The condition of this obligation is such, that whereas, at a term of the Circuit Court of the United States for the Southern District of Mississippi, commenced and held at the city of Jackson, on the first Monday of May, A.D. 1860, judgment was rendered by said court in favor of the said John W. Russell et al. against the said Richard Christmas, for the sum of twelve thousand one hundred and fifty-five dollars and $\frac{48}{100}$ and costs of suit, and the said Richard Christmas has sued out a writ of error from the Supreme Court of the United States to reverse said judgment.

Now, if the said Richard Christmas shall prosecute his said writ of error to effect, and shall well and truly pay and satisfy the amount of said judgment, and all such damages, interest, and costs, as the said Supreme Court of the United States shall adjudge in the premises, if he, the said Richard Christmas, shall fail to make his plea good, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

(Signed) R. CHRISTMAS, [SEAL.]
By JAMES F. RUCKS,
Attorney in Fact.
W. YERGER, [SEAL.]
W. P. ANDERSON, [SEAL.]

Power of Attorney to James T. Rucks.

Know all men by these presents, that I, Richard Christmas, of the county of Issaquena, State of Mississippi, have made, constituted, and appointed James T. Rucks, Esq., of Jackson, in said State, my true and lawful attorney, for me and in my name, and as my act and deed, to sign, seal, and deliver any writ of error, supersedeas, injunction, or appeal bond which it may be necessary or proper to execute in the suit of John W. Russell, use, &c., *v.* me, now pending in the Circuit Court of the United States for the Southern District of Mississippi, in order to prosecute an appeal or writ of error to the Supreme Court of the United States; and by these presents I authorize my said attorney to execute any bond which may be required in the premises, and hold and ratify for firm and effectual whatever my said attorney may do.

In witness whereof, I hereunto set my hand and seal, this 25th day of May, A.D. 1860.

(Signed) R. CHRISTMAS. [SEAL.]

Teste,
A. BURWELL.

United States of America, Southern District of Mississippi,
Circuit Court U. S.

I, William H. Brown, clerk of said Circuit Court, do hereby certify, that the foregoing one hundred and eighty-five pages contain a full, true, and complete transcript of the record of the judgment between the parties therein named, together with a true and correct copy of the writ of error bond filed and approved therein, as the same now remain of record and on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Jackson, this 17th day of November, A.D. 1860, and of the independence of the United States the 85th.

[SEAL.]

W. H. BROWN,
Clerk.

United States of America, Southern District of Mississippi,
Circuit Court United States.

I, Samuel J. Gholson, presiding judge of said Circuit Court, do hereby certify that William H. Brown, whose name is subscribed to the foregoing certificate, is, and was at the time of signing the same, clerk of said Circuit Court, and that his attestation is in due form of law.

Given under my hand and seal, this 20th day of November, A.D. 1860.

S. J. GHOLSON, [L. S.]

United States of America, *ss.*

The President of the United States, to the judges of the Circuit Court of the United States for the Southern District of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or some of you, between John W. Russell, for his own and the use of Jacob Swigert, Philip Swigert, Edward H. Watson, and Thomas H. Lindsey, in his own right and for his use as administrator of Churchill Samuel, deceased, plaintiff, and Richaad Christmas defendant, a manifest error hath happened, to the great damage of the said Richard Christmas, as by his complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in his behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the law and custom of the United States, should be done.

Witness, the Honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of May, in [SEAL.] the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the 84th.

Issued the 25th day of May, A.D. 1860.

W. H. BROWN,
Clerk.

United States of America, *ss.*

To John W. Russell, for his own use, et al., greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at Washington, on the first Monday in December next, pursuant to a writ of error, filed in the clerk's office of the Circuit Court of the United States for the

Ninth Circuit and Southern District of Mississippi, wherein Richard Christmas is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Samuel J. Gholson, one of the judges of the Circuit Court of the United States for the Southern District of Mississippi, this 25th day of May, in the year of our Lord one thousand eight hundred and sixty, and in the 84th year of the independence of the United States.

S. J. GHOLSON.

Indorsed: Richard Christmas, citation *v.* John W. Russell, use, &c. To the marshal of the Southern District of Mississippi, to serve on C. L. and R. S. Buck, attorneys for John W. Russell. W. H. Brown, clerk.

Service of the within writ acknowledged this September 7th, 1860.

C. L. & R. S. BUCK,
Attorneys for Russell.

Marshal's Fees.

Service, ...	$2 00
Mileage, ...	3 00
Copy E. & R., ...	1 00
	$6 00

Received 25th May, 1860.

R. GRIFFITH,
Marshal.

Supreme Court of the United States.

No. 44.

RICHARD CHRISTMAS, PLAINTIFF IN ERROR,

vs.

JOHN W. RUSSELL, USE OF, &c.

BRIEF FOR PLAINTIFF IN ERROR.

This cause comes up by writ of error to the circuit court for the southern district of Mississippi.

In that court, on the 4th day of June, 1859, an action of debt was brought against the plaintiff in error, upon a judgment obtained in Kentucky, whereby the plaintiff below recovered the sum of $5,634 13, with interest from March 1, 1841. (Rec., p. 2.)

In the action thus brought in the circuit court of Mississippi the defendant filed six pleas—of which the second was to this effect: that at the time the cause of action accrued, and thenceforth until suit was brought in Kentucky, and at the time when said suit was brought, he was a resident of Mississippi, and that the cause of action would have been barred by an act of limitation of that State, if the suit had been brought therein, (Rec., p. 3;) and so by the law of Mississippi, no action could be maintained in said State upon the said judgment.

He also pleaded (4th,) that the judgment set forth was obtained and procured by the plaintiff by fraud of the said plaintiff. (Rec., p. 4.)

And (6th,) that the said suit in which judgment was obtained, was instituted to evade the laws of Mississippi, and in fraud of said laws. (Rec., p. 5.)

To these pleas the plaintiff below demurred, (Rec., p. 5,) the demurrer was sustained, (Rec., p. 6,) and the question is as to

the sufficiency of these pleas, or either of them, to bar the action.

We will, for convenience, discuss the fourth plea first, and then the second and sixth together.

I.

The fourth plea offered to prove, in bar to the action, that the judgment sued on was obtained and procured by the plaintiff by his fraud.

Fraud by the plaintiff in procuring the judgment, if well and sufficiently pleaded and proven, would have barred the action.

This is the established rule of law, and was so laid down by this Court in the case of Webster *vs.* Reid, (11 Howard, 441, 460; see also Story Conf. Laws, sec. 609; Bradstreet *vs.* Neptune Ins. Co., 3 Sumner, 604.)

It is also the rule in Kentucky, where the judgment now sued on was rendered.

Talbot *vs.* Todd, 5 Dana, 194–6.

2d. Fraud was well and sufficiently pleaded.
3 Ch. Pl., 1184.

II.

The second and sixth pleas were intended to set up a defense under a statute of Mississippi, found in the Code of that State, which was adopted in February, 1857, and went into effect on the 1st day of November of that year. (Revised Code, pp. 43, 400.) By that statute it was enacted, as follows:

"No action shall be maintained on any judgment or decree rendered by any court without this State against any person who, at the time of the commencement of the action in which such judgment or decree was or shall be rendered, was or shall be a resident of this State, in any case where the cause of such action would have been barred by any act of limitation of this State, if such suit had been brought therein."

Miss. Code, 1857, p. 400.

The facts in this case, which would have supported the plea, as admitted in the evidence for the plaintiff below, or offered to be proved by the defendant in that action, are, in substance, as follows:

The said defendant, being a citizen and resident of Mississippi, at Vicksburg, in that State, in March, 1840, made and delivered to one Churchill Samuel, who is presumed to be, and for aught that appears was, in fact, also a citizen and resident of the same State, a promissory note, promising to pay to his order in March, 1841, a sum certain. This note was endorsed by Samuel to the plaintiff, being a citizen and resident of Kentucky. (Rec., p. 7.) By the law of Mississippi, action on this note was barred by limitation, after six years, in March, 1847. In 1853, the defendant, who was still, and had continuously been, a resident of Mississippi, having a mansion house therein, went into Kentucky on a visit, and was there sued upon the note. (Rec., p. 7.)

To this action he pleaded among his pleas the following:

"2d. The contract sued on was made in the State of Mississippi, where the defendant then at the date of said writing resided and has ever since resided. By the laws of the said State of Mississippi, the cause of action by said contract was and is barred by the lapse of six years from the time the cause of action accrued, without suit thereon; and said six years expired on the 1st day of March, A. D. 1847, in said State of Mississippi, and said cause of action was then entirely barred by the laws of said State. At the time this suit was commenced the defendant was on a temporary visit to the State of Kentucky, and still continued to reside in the State of Mississippi." (Rec., p. 9.)

It does not appear by the record that any notice was taken of this plea, but among the instructions asked by the plaintiff was the following:

The plaintiff then asked the court to instruct the jury, "that the law where the contract is made is to determine the validity and interpretation of the contract, whilst the law where the suit is brought determines the form and extent of the remedy; and that the plea of the statute of limitation of the State of Mississippi cannot be relied on in this action, as a bar to plaintiff's claim and is no defence in the courts of Kentucky." (Rec., p. 60.)

This instruction with others the court refused to give and the plaintiff excepted. (Rec., p. 61.) A verdict having been rendered for the defendant the judgment was reversed on appeal, (Rec., p. 77,) and the cause coming back a verdict and judgment were rendered for the plaintiff. (Rec., p. 78.) It does not appear in what manner the plea above mentioned was disposed of.

This judgment, (after motion for new trial, &c.,) having become final on the 31st of March, 1859, (Rec., p. 140,) a transcript was promptly carried into Mississippi, the place of the domicil of the defendant, and within about sixty days after the rendition of the Kentucky judgment, action of debt was brought upon it in the U. S. Circuit Court.

The manifest policy of the State of Mississippi in passing the statute set up by the defendant in his second plea in the circuit court, was to protect its citizens from unjust and harassing litigations under precisely the circumstances as above set forth. And the question is whether this statute, having such intent and policy, was within the constitutional competency of the State to enact.

On the brief filed by the defendant in error it is maintained that such a power cannot be exercised, without violating one or both clauses of the constitution, respecting the full faith and credit due to the records and judicial proceedings of the several States, (Art. IV, sec. 1,) and the inviolability of contracts. (Art. I, sec. 10.)

The cases on that subject have been collected and cited in the brief for the defendant in error, and comprise all that are supposed to have any application to this constitutional question. Without here examining them in detail, it is sufficient to observe that on the one hand they clearly establish that "the full faith and credit" which is guaranteed to the records and judicial proceedings of the several States, has relation to them only as instruments of evidence, (Mills *vs.* Duryee, 7 Cranch, 481,) while on the other all the cases concede that the whole subject of *remedies* by action or suit at law or in equity is within the undoubted competency of the respective States. In Bronson *vs.* Kinzie, (cited in the defendant's brief,) Mr. Chief Justice Taney says: "For undoubtedly a State may regulate at pleasure the modes of proceeding in its courts in relation to past contracts as well as future. It may, for example, shorten the period of time within which claims shall be barred by the statute of limitations. It may, if it thinks proper, direct that the necessary implements of agriculture, or the tools of the mechanic, or articles of necessity in household furniture, shall, like wearing apparel, not be liable to execution on judgments.- Regulations of this description have always been considered, in every civilized community, as properly belonging to the remedy to be exercised or not by every sovereignty, according to its own views of policy and humanity. *It must reside in every State to enable it to secure its citizens from unjust and harassing litigation, and*

to protect them in those pursuits which are necessary to the existence and well being of every community. And although a new remedy may be deemed less convenient than the old one, and may in some respects render the recovery of debts more tardy and difficult, yet it will not follow that the law is unconstitutional. *Whatever belongs merely to the remedy may be altered according to the will of the State, provided the alteration does not impair the obligation of the contract.* But if that effect is produced, it is immaterial whether it is done by acting on the remedy or directly on the contract itself. In either case it is prohibited by the Constitution."

Now, in the present case the only contract between the parties in form or substance, which is pretended to have had any existence at the date of the Mississippi statute, was that which is set forth in the Record, pp. 7, 8, from which it appears that the plaintiff in error, being a citizen and resident of Mississippi, on the 10th day of March, 1840, in that State, made and delivered his promissory note to one Churchill Samuel, promising to pay to his order a certain sum of money at a certain day thereafter. Neither the statute in question, nor any other statute of Mississippi purports to impair, or is pretended to have impaired the obligation of this contract. After the passage of the disputed statute, as well as before, there was a statute of limitations which barred the remedy in this contract in six years after the cause of action accrued, but this it is conceded was within the constitutional power of the State.

All that had occurred after the making of this contract was that a new and higher instrument of evidence establishing the same contract with greater solemnity had been imposed upon the debtor, by a proceeding *in invitum*, in another State of the Union, where he happened to be found temporarily sojourning. But the contract between the parties remained the same in its substance, although it had changed its form by operation of law, in which form its substance is distinctly repeated and and adjudicated. (See the declaration and judgment, Rec. pp. 7, 8.)

If a judgment be technically a contract, the *aggregatio mentium* being imputed to the parties by reason of their implied consent to the social compact, is it a new substantive contract in the sense intended by the Constitution, or only a new instrument of evidence of the same contract in which it is founded, and to which on its face it refers—a new form of evidence what precludes the party defendant from certain defences which would have been open to him in its original form? For example, *nil debet*, can no longer be pleaded where the

judgment is upon a parole contract, because the debt is now evidenced by a specialty. But on the other hand, the defendant may not only plead payment, satisfaction, &c., which confesses the judgment, but, also *per fraudem*, which avoids it.

These rules of pleading are the result of a technical legal logic depending upon the form or evidence of the contract. But will it be maintained that when a contract has assumed a new shape by extra-territorial judicial proceedings it may be immediately brought back into the State where it was made, and where in its original form it was a mere nullity, because against public policy in violation of express law, and the courts be compelled to enforce it? This surely will not be contended.

We suppose the following to be the true propositions arising in this branch of the case:

1. The Kentucky judgment is not a contract in the sense of the Constitution.

2. It is not an express contract at all. The judgment is only conclusive evidence of facts from which the law implies a contract.

3. When, therefore, this judgment was sued upon in Mississippi, it was sued upon as such conclusive evidence of facts upon which an implied contract was then to arise.

4. But if under the law and policy of that State no such contract could be implied, then the law of Mississippi has not impaired the obligation of any contract in denying any remedy in the premises.

5. Nor does the statute of Mississippi deny to the Kentucky Record the full faith and credit guaranteed to it by the Constitution. In the present case full faith and credit and effect as evidence were given to the Kentucky record, as conclusive of every matter and thing which thereby appeared. And it did thereby appear that the judgment had no other foundation than a certain Mississippi contract therein set forth, which fell within the purview of the Mississippi statute in question, the cause of action therein having been long barred by the limitation acts of said State in force at the date of the contract. (See Plea in the Kentucky Court Record, p. 9.)

This question rises far above any mere technical criticism of the provisions of the Constitution; it involves the sovereign competency of the State to enforce its own laws within its own limits in regard to subjects of litigation arising there between its own citizens. In the case at bar the statute invoked by the plaintiff was passed, manifestly, in the just and reasonable exercise of that power, which in the language of

this court above cited, must reside in every State to enable it to secure its citizens from unjust and harassing litigation. It does not disregard or discredit the Kentucky record; but giving that record full faith and credit, it declares that upon the facts thereby appearing, the obligation thereby attempted to be imposed upon the defendant is contrary to the public policy of the State, and shall not be enforced within its limits.

J. M. CARLISLE,
J. D. McPHERSON,
Of Counsel for Plaintiff in error.

Carlisle - Fran question - whether act of Mississippi constitutional - affecting alleged rights of plaintiff

2d Plea - just. obt. by fraud & covin - dem'd & dem'r sustained. Thus ruling.

1st Plea - Statute of Mississippi.
(a) Does this Statute impair Obligation of Contract

Supreme Court of United States.

JOHN W. RUSSELL, USE, &c.,

ads.

R. CHRISTMAS.

In error to the Circuit Court of the United States for the Southern District of Mississippi.

On the 5th day of September, 1853, the defendant in error, John W. Russell filed an ordinary petition under the Civil Code of Kentucky, against the plaintiff in error, in the Jefferson circuit court of Kentucky, claiming to recover from the plaintiff in error, and from others, the sum of $6,420 42 cents, with interest—due by promissory note executed on the 10th day of March, 1840, at Vicksburg, Mississippi, payble at New Orleans, Louisiana, on the 1st day of March, 1841, to Churchill Samuel, and assigned by him to defendant Russell.

Christmas alone was served with process, and made defense. He suggested that Russell was not the sole owner of the note sued upon; and as the Civil Code of Kentucky required the real parties in interest to be before the court as plaintiffs or defendants, an amendment was made making the other persons —they for whose use with Russell the suit was brought in Mississippi—defendants. Such proceedings were ultimately had in Kentucky as resulted in a judgment in favor of defendant in error against plaintiff in error, for $5,634 13, with interest thereon from the 1st day of March, 1841, until paid, and $170 85 costs. A credit of $200 was subsequently given to correct an error, with interest from 1st March, 1841.

This judgment of the circuit court was affirmed by the court of appeals of Kentucky. (See page 78, for judgment of the circuit court, and page 140 for the mandate of affirmance.)

Nothing being made on the judgment in Kentucky, a full copy of the proceedings in the courts of Kentucky was made out in record form, duly certified by the clerk and judge of the circuit court of Jefferson county, and the suit herein, on which the judgment sought to be reversed, was rendered, was brought by the defendant in error in the circuit court for the southern district of Mississippi.

The suit was brought in Mississippi on the 4th day of June, 1859, by Russell for the use of himself and the other persons named in the caption of the declaration. The plaintiff in error, for defense to the suit on the record, filed six pleas as follows:

First—*Nul tiel record.*

Second—That the note when sued upon in Kentucky, was barred by the statute of limitations of Mississippi—said Christmas being at that date, and ever since, a resident and domiciled citizen of Mississippi, and had been from the falling due of said note until it was sued upon in Kentucky.

Third—Payment.

Fourth—That the judgment in the record was obtained by fraud.

Fifth and Sixth—The same, in substance, as the second, relying on the statute of limitations of Mississippi.

Issues of fact were made on the first and third pleas—*Nul tiel record* and payment. The others were severally demurred to, demurrers sustained, and judgments for defendant in error on the issues of fact for $5,634 13, the amount of the principal of the judgment in Kentucky, and for $6,521 35 cents in damages, being the interest and costs.

The verdict of the jury on which the foregoing judgment was founded, having omitted the credit of $200, given in the

Kentucky record, the counsel for defendant in error had the correction made, by giving credit for the $200 with interest from the day the note became due, which avoided and cured the error.

From these procedings, and the judgment thus entered, the plaintiff prosecuted this writ of error herein, with supersedeas.

No other remark need be made as to the pleas of *Nul tiel record* and payment, than that they were clearly in the issues thereon for defendent in error—the record being certified as required by the act of Congress, and there being no evidence tending to show that plaintiff in error had paid any part of said judgment.

In regard to the plea, that the judgment had been obtained by fraud, the circuit court of Mississippi had no authority to inquire. By the 1st section of the 4th article of the constitution of the United States, the record from Kentucky was conclusive in the first named court.

The plaintiff in error being before the Kentucky court by regular service of process, and having made defense, he could not according to any known rule of practice, have raised a question in Kentucky as to the fairness with which the judgment was obtained, especially after the term at which the judgment was rendered. But in this case there is the insuperable barrier in his way, of the judgment having been affirmed by the appellate court of Kentucky, on the appeal of the plaintiff in error, so that such a plea, if good, would be virtually retrying the cause, as affirmed by the court of appeals of Kentucky, in the circuit courts of the United States, in the state of Mississippi—a thing the circuit court in Kentucky could not have done on any of the facts exhibited in the record.

In addition, if it was permissible to plead such plea, it was insufficiently done in this case, in not setting out how the fraud was perpetrated in getting the judgment.

But the great question relied upon, as we suppose, is the Mississippi statute of limitations, the 10th article or section of which is as follows:

"No action shall be maintained on any judgment or decree rendered by any court without this State, against any person who, at the time of the commencement of the action in which such judgment or decree was or shall be rendered, was or shall be a resident of this State, in any case where the cause of such action would have been barred by any act of limitations of this State, if such suit had been brought therein." *Miss. Code,* 1857, *page* 400.

This Mississippi act was passed about four years after the suit was begun by Russell, on the note in the Jefferson circuit court, and went into effect, as will be seen, only *eleven days* before the judgment was rendered; so that if the statute meant to allow any remedy at all to Russell, it was one that amounted to nothing if he had to procure a record, and sue on it in Mississippi, in *eleven days.* The legislature had as well have given no time as regards this case.

We contend, however, the act is clearly unconstitutional, as it clearly impairs the rights of the defendant in error—depriving him, in fact, of all right to sue upon the record.

The authorities relied upon to sustain our position are the following: Bronson vs Kinzie, 1 How., 315; Haynard vs McCracken, 2 How., 608; Tapley vs Hamer, 9 Smedes and Marshall, 313; West Feliciana Railroad Company vs Stocket, 13 Smedes and Marshall, 397; 24th Mississippi Report, 379; 26th Mississippi Report, 304; Murray vs Gibson, 15 How. Supreme Court Reports, 421; 2 Parson on Contracts, 539; Angell on Lim., sections 22 and 23; Story's Conflict of Laws, sec. 1379.

The act is in conflict with the 1st section of the 4th article of the constitution of the United States, and the act of congress of 26th of May, 1790, made in pursuance thereof.

There is no question the defendant in error had a right to a judgment on the note in the courts of Kentucky by the laws of

that State. It was so decided by the highest court of that State, by the affirmance of the judgment of the inferior court, where limitation had been relied upon, and where all legal defenses were bound to be made. It is not competent for any State to authorize its courts to look into the records of the courts of sister States, and re-try questions decided in such courts. The records are conclusive; full faith and credit must be given to them—the same faith and credit that would be given in the courts where the records are made.

As the Kentucky court could not go back and review any questions of fraud or limitations made, or that might have been made, on the trial between the parties, then neither could the circuit court of the United States for Mississippi have done so legally. To give the record the same force and effect in Mississippi in the circuit court of the United States, as it would have had in Kentucky, was at once to preclude all questions of limitation or fraud.

But the following authorities will settle the questions: Mills vs Duryee, 7 Cranch, 481; Hampton vs McConnell, 3 Wheat., 334; McEmoyle vs Chon, 13 Peters, 320; Bank United States vs Merchants Bank, 7th Gill, 432; 2d American Leading Cases, page 763 to end.

These authorities establish the propositions that such a statute of limitations is void for the reasons aforesaid. That the record in such a case must have full force and effect as to all matters that existed before the trial, and that no pleas to a suit thereon are good except *nul tiel record, payment,* or some plea in abatement, touching the rights of the parties to sue in the court of the United States, or some limitation to the right of suing on the record founded on reasonable time from the date of the judgment. An affirmance is prayed.

J. W. RUSSELL,

~~THOS. N. LINDSEY, &c.~~

T XIII R XIII E SOUTH EASTERN DISTRICT LOU

T 13 R 14 E

United States
vs
James McMasters
No: 2061

Filed with petition
20 Nov: 1851
W Gurley. Clerk

Lake Borgne

Bayou Terre aux Boeufs

Section 37

upper line according to the opinion of the Attorney General

Lagoon

Marquis

Mississippi River

French Grant Jan 23. 1759

Chapelle by the upper line according to decree of 19 May 1838

Spanish Grant Nov 3 1784 to Mad. Lecomte

French Grant July 8 1723

French Grant to Bodeman July 8 1723

French Grant

French 26 Arpents

T 6 Marquis

Spanish Grant Dec. 28 1763

Madame Beauregard 10

Old Fort

Bayou

Bay

Mississippi

No 165 — Ka:3

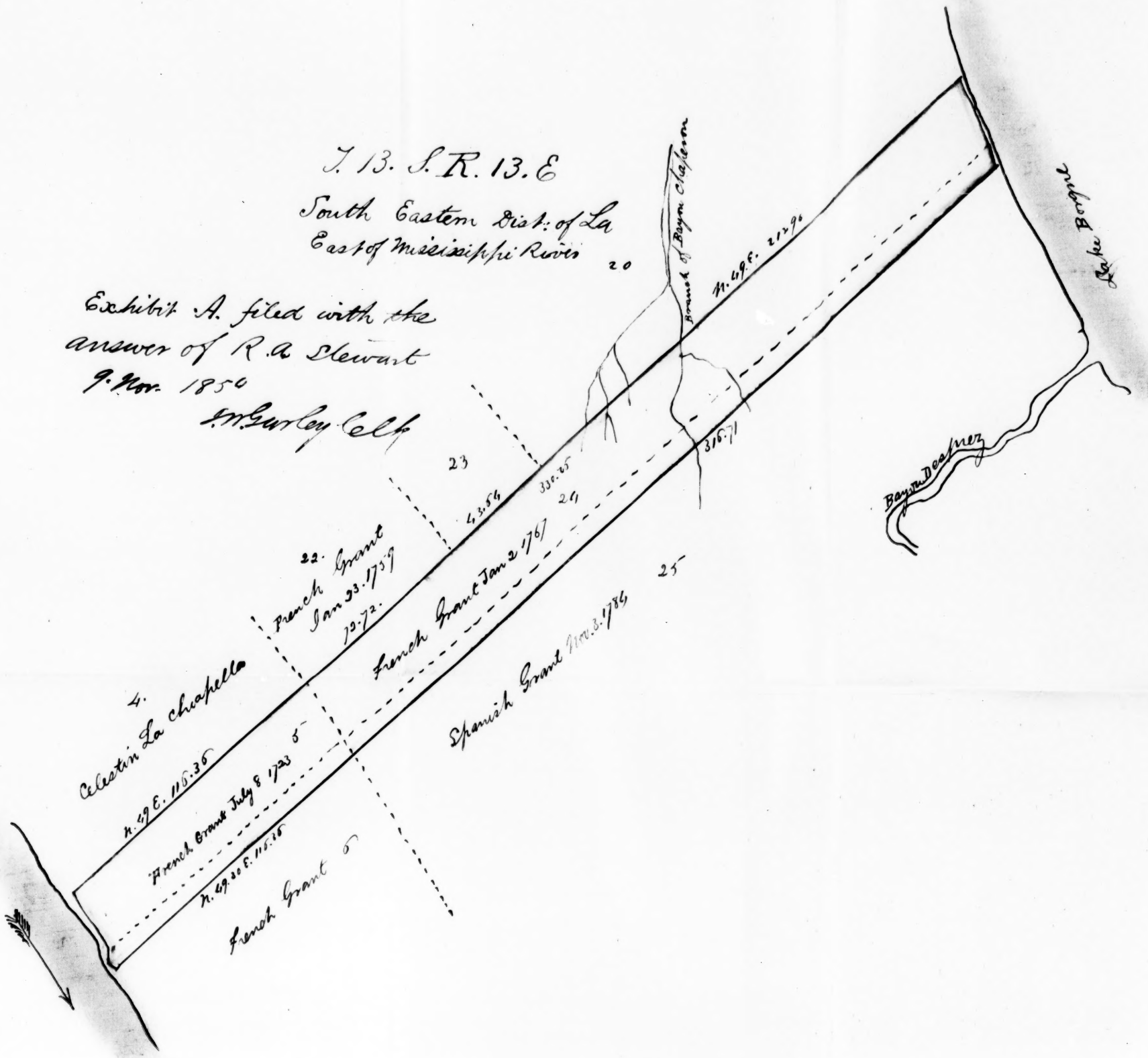
No 165. pa 18

T. 13. S. R. 13. E

South Eastern Dist. of La
East of Mississippi River

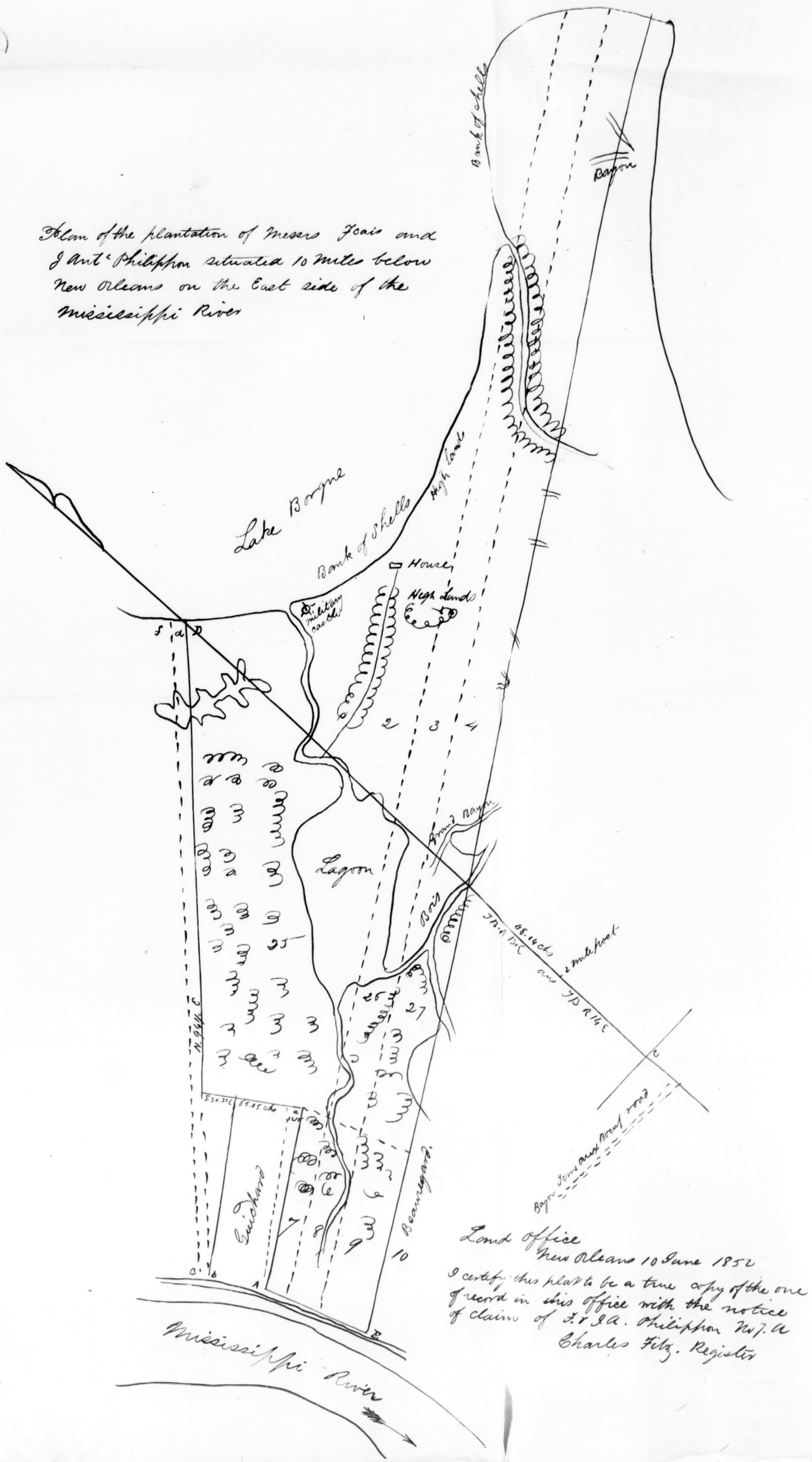
20

Exhibit A. filed with the
answer of R.A Stewart
9. Nov. 1850
E.M. Gurley Clk



(3)

Plan of the plantation of Messrs Jcais and J Ant.e Philippon situated 10 miles below New Orleans on the East side of the Mississippi River



Lands Office
New Orleans 10 June 1852

I certify this plat to be a true copy of the one of record in this office with the notice of claims of J. & J.A. Philippon No 7. A

Charles Fitz. Register

Do 1155. Jan 36

Ex: B

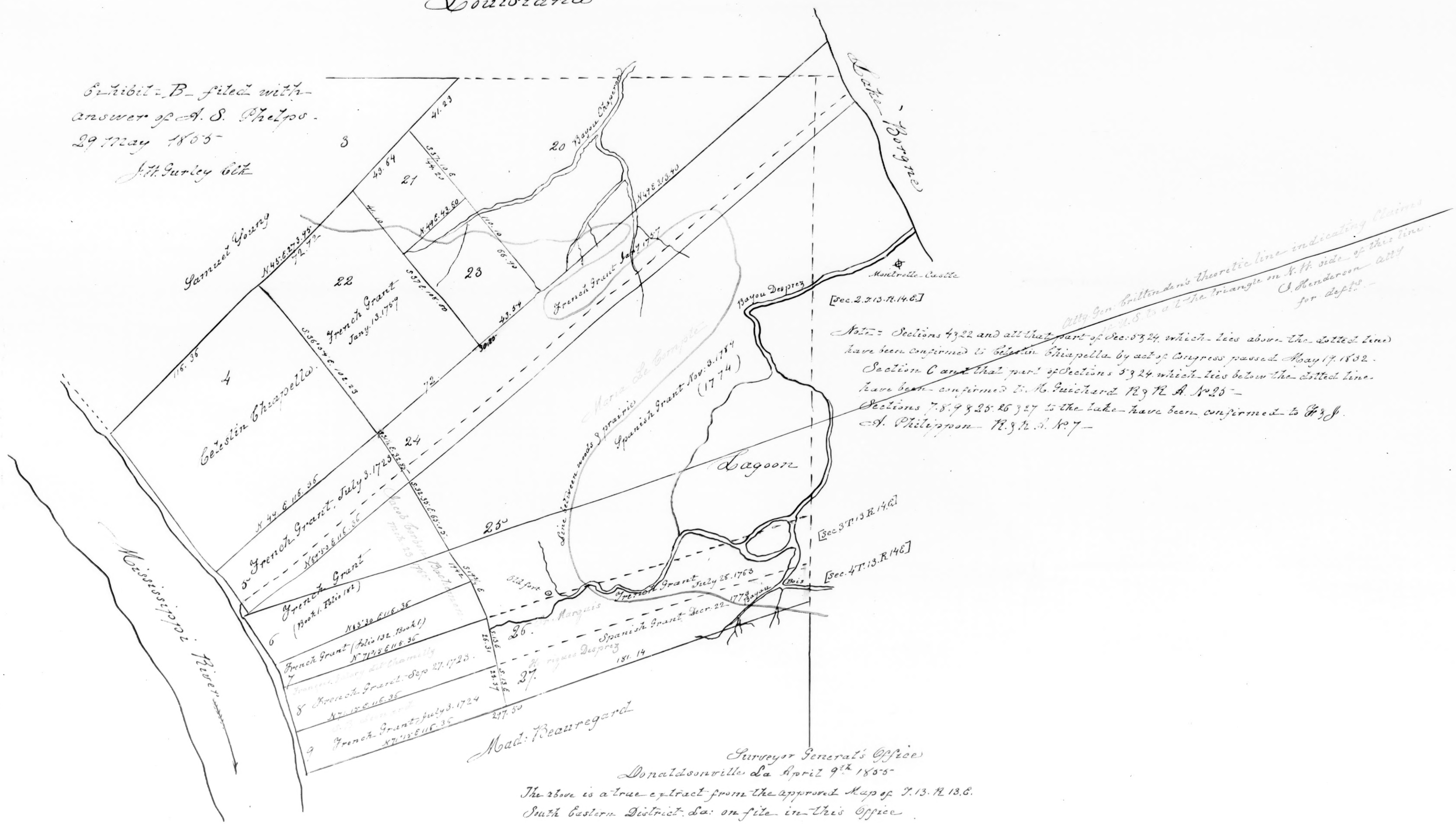
T. 13 R 13 E

South Eastern District

Louisiana

Exhibit B filed with answer of A. S. Phelps. 29 May 1855

J. H. Gurley Clk


Lake Borgne
Samuel Gurry
N 45° E 373.75
72.72
41.23
43.84
S 45° E 43.50
N 44° E 43.50
112.10
65.70
43.54
50.00
72.
116.36
S 45° E 116.23
N 44° E 116.36
S 45° E 63.42
S 45° E 116.36
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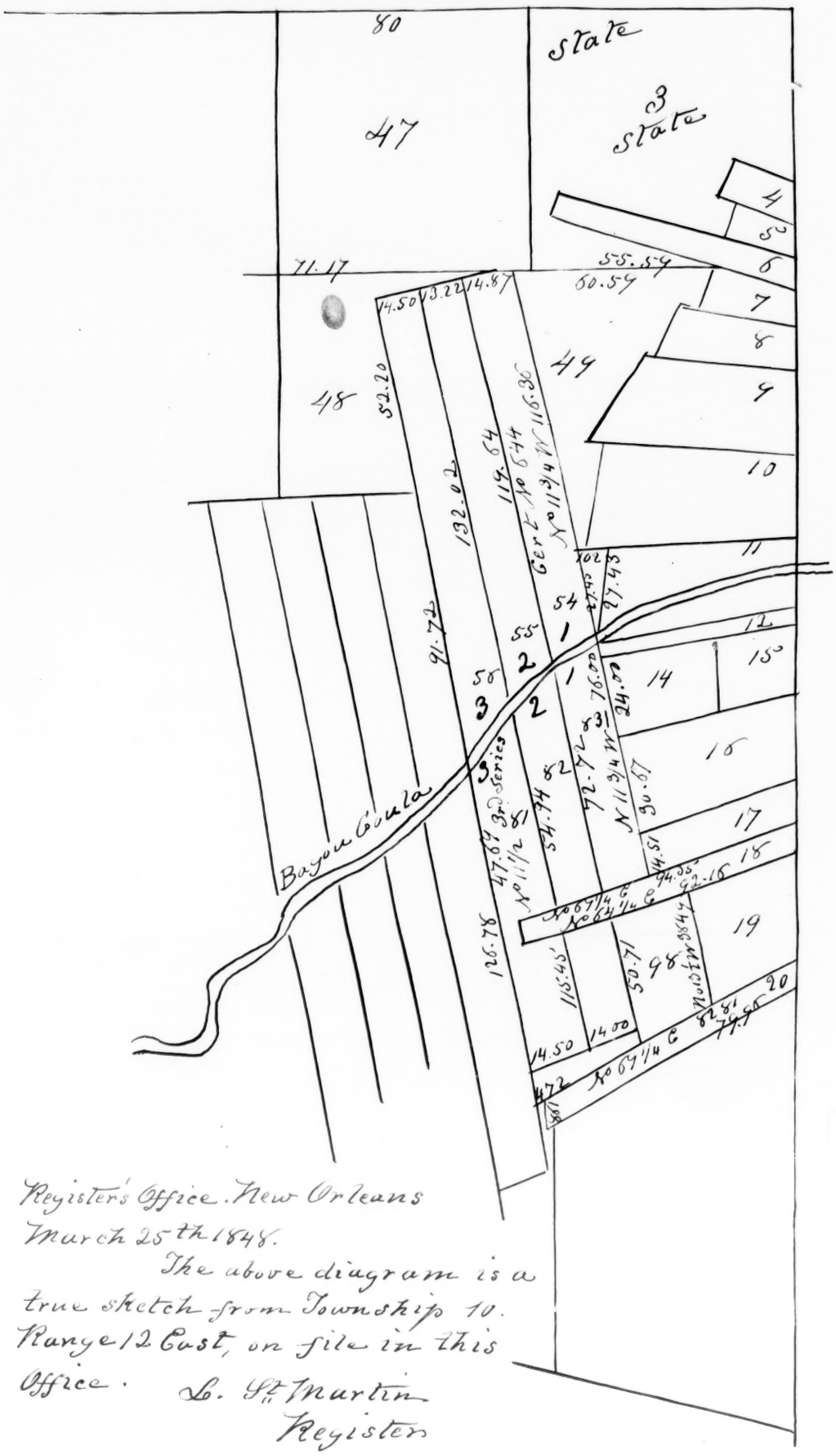
S 45° E 116.36
N 45° E 116.36

No. 201 — page 114. —

Exhibit No: 1. with defdt: Hughes answer

— 11 —

T. 10. R 12 E. South Eastern Dist: La:



Registers Office. New Orleans
March 25th 1848.

The above diagram is a true sketch from Township 10. Range 12 East, on file in this Office. L. St. Martin
Register

T. 10. R. 12. E. South Eastern District of La: —

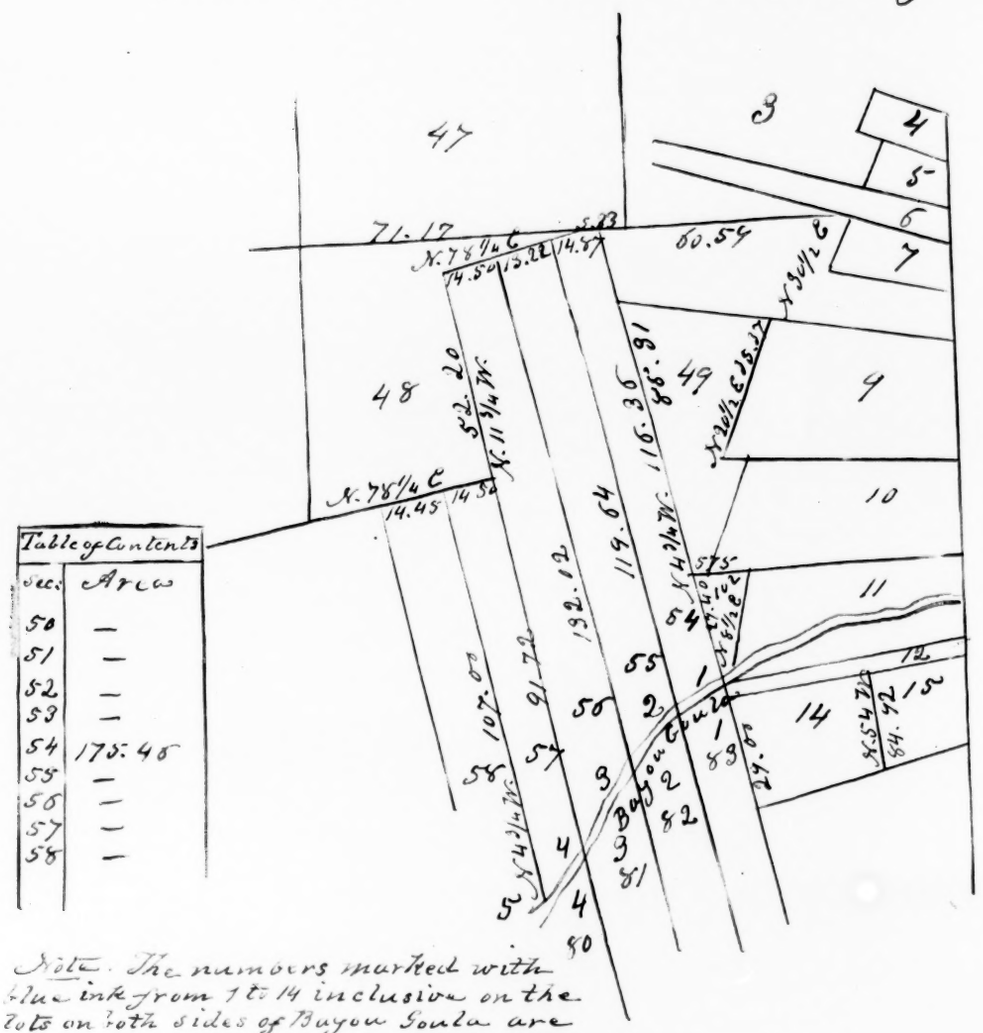


Table of Contents	
Secs.	Area
50	—
51	—
52	—
53	—
54	175.48
55	—
56	—
57	—
58	—

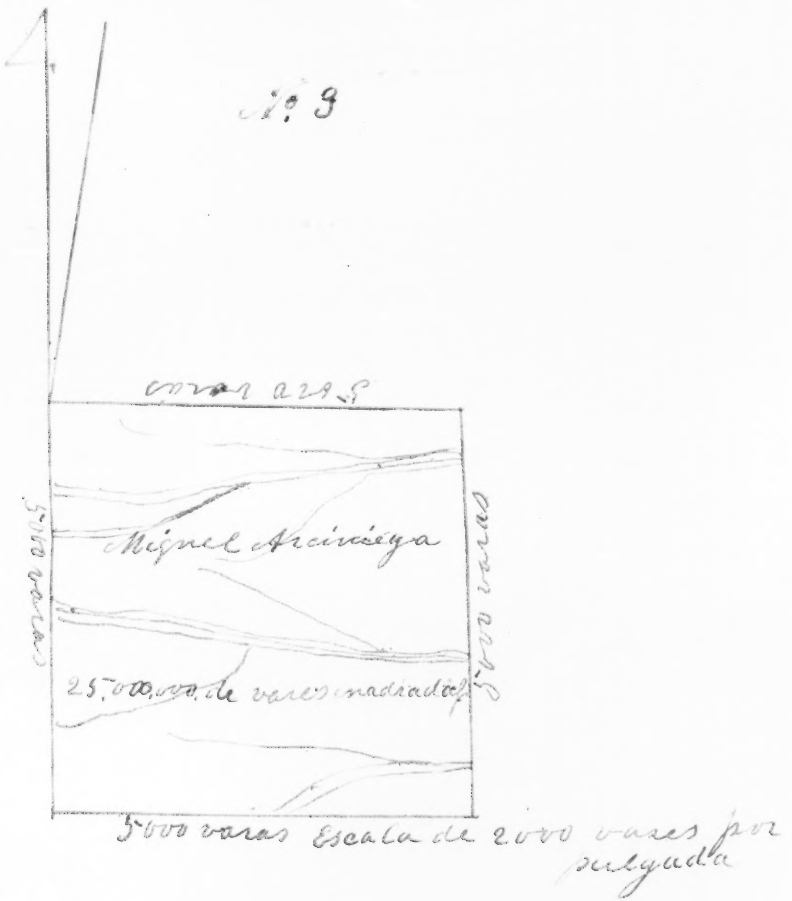
Note. The numbers marked with blue ink from 1 to 14 inclusive on the lots on both sides of Bayou Goula are the original numbers of those lots.—

Surveyor's Office Washington Missi. March 4th

I Hereby Certify that the above plat is a true copy of the original returned to this office which has been examined and approved

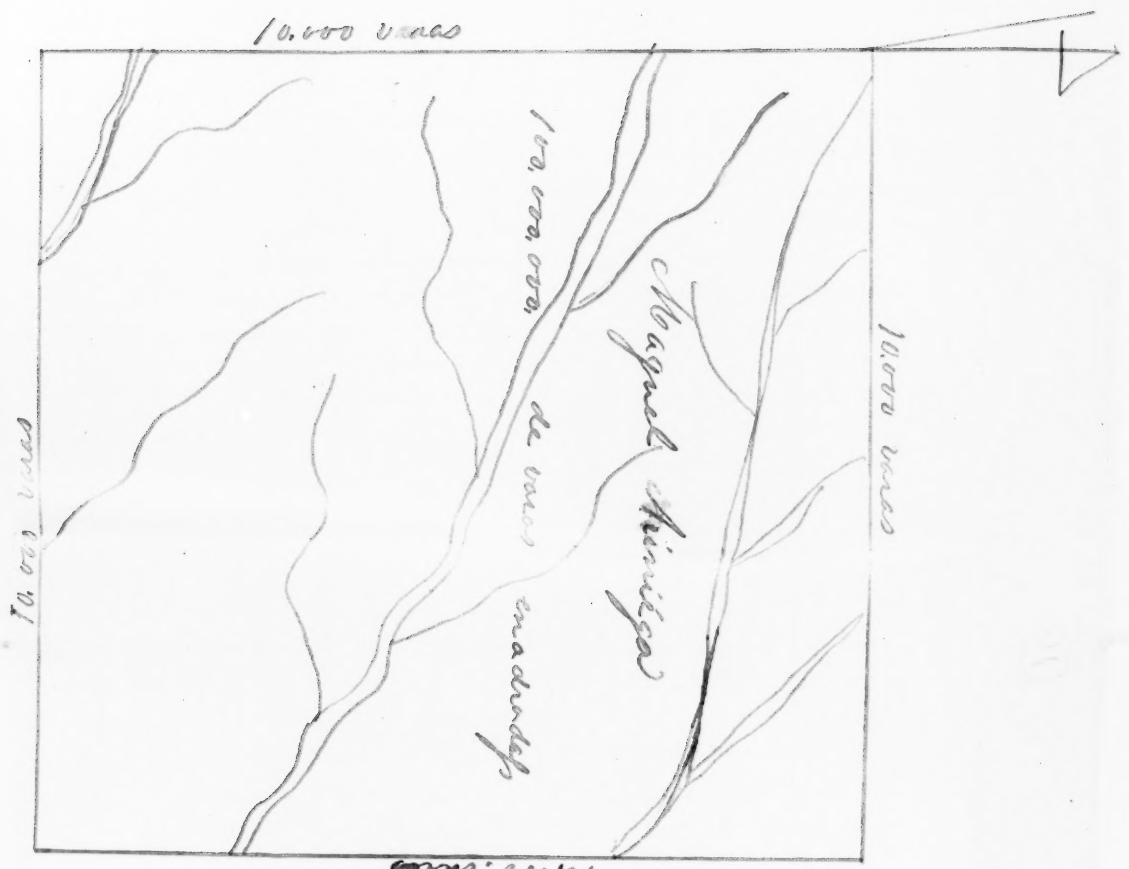
Jr. Lumbar Surv. P. Lands.

No 176. page 48

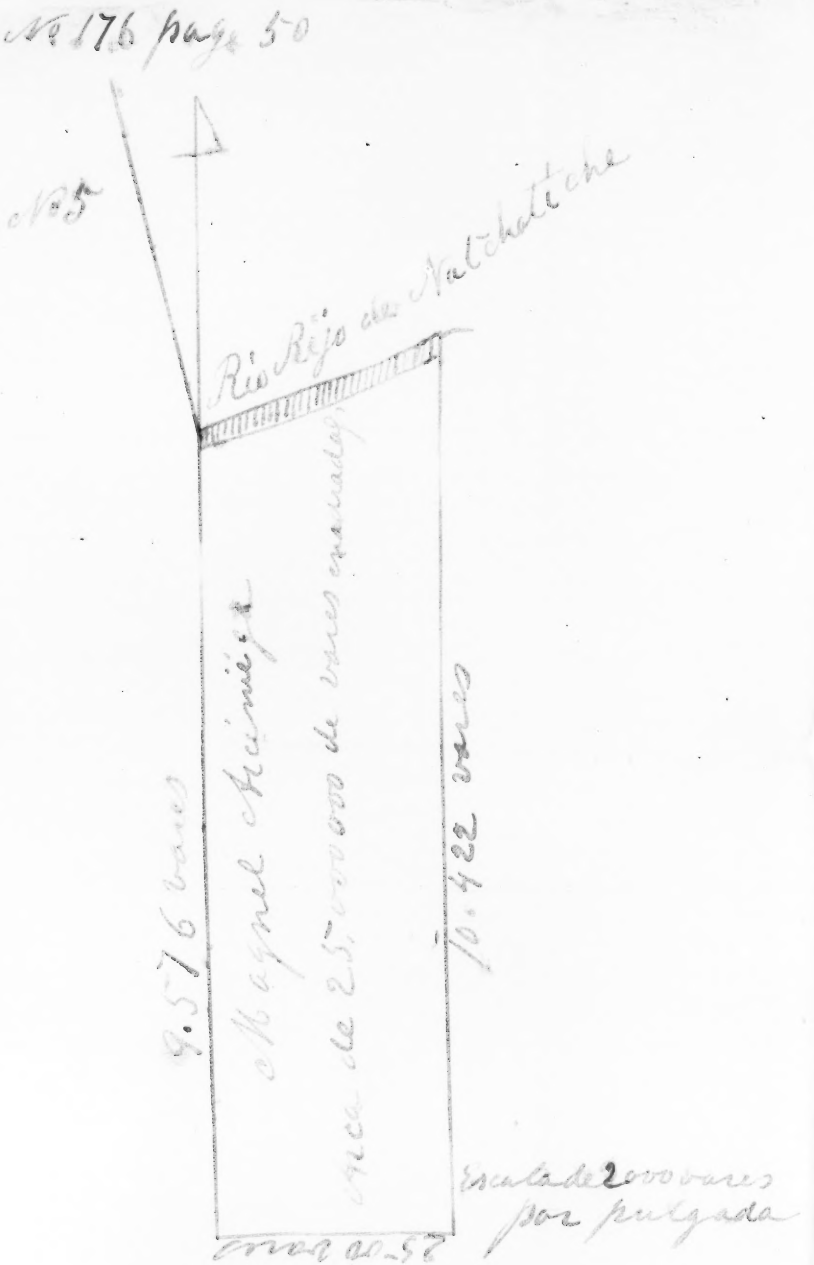


N.º 176. Christy & Bridgeon. page 49

No 4



Escala de 2.000 varas por pulgada


No 176 page 50
No 5
Rio Rejo des Natchatiche
9.576 varas
Margel Arimèja
Area de 2.500.000 de varas cuadradas
10.422 varas
Escala de 2000 varas por pulgada

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